

CITY OF VALLEJO PLANNING COMMISSION

Charles Legalos, Chairperson
Kent Peterman, Vice Chair
Robert McConnell
Norm Turley
Gail Manning
Bruce P. Gourley
Suzanne Harrington Cole

MONDAY
17 March 2008

7:00 P.M.

City Hall
555 Santa Clara Street
Vallejo, California 94590

Those wishing to address the Commission on a scheduled agenda item should fill out a speaker card and give it to the Secretary. Speaker time limits for scheduled agenda items are five minutes for designated spokespersons for a group and three minutes for individuals.

Those wishing to address the Commission on any matter not listed on the agenda but within the jurisdiction of the Planning Commission may approach the podium during the "Community Forum" portion of the agenda. The total time allowed for Community Forum is fifteen minutes with each speaker limited to three minutes.

Government Code Section 84308 (d) sets forth disclosure requirements which apply to persons who actively support or oppose projects in which they have a "financial interest", as that term is defined by the Political Reform Act of 1974. If you fall within that category, and if you (or your agent) have made a contribution of \$250 or more to any commissioner within the last twelve months to be used in a federal, state or local election, you must disclose the fact of that contribution in a statement to the Commission.

The applicant or any party adversely affected by the decision of the Planning Commission may, within ten days after the rendition of the decision of the Planning Commission, appeal in writing to the City Council by filing a written appeal with the City Clerk. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by the City Clerk or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or City holiday, then the deadline shall be extended until the next regular business day.

Notice of the appeal, including the date and time of the City Council's consideration of the appeal, shall be sent by the City Clerk to all property owners within two hundred or five hundred feet of the project boundary, whichever was the original notification boundary.

The Council may affirm, reverse or modify any decision of the Planning Commission which is appealed. The Council may summarily reject any appeal upon determination that the appellant is not adversely affected by a decision under appeal.

If any party challenges the Planning Commission's actions on any of the following items, they may be limited to raising only those issues they or someone else raised at the public hearing described in this agenda or in written correspondence delivered to the Secretary of the Planning Commission.

If you have any questions regarding any of the following agenda items, please call the assigned or project planner at (707) 648-4326.

- A. ORDER OF BUSINESS CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. ROLL CALL
- D. APPROVAL OF THE MINUTES: February 20, 2008.
- E. WRITTEN COMMUNICATIONS: None.
- F. REPORT OF THE SECRETARY

None.
- G. CITY ATTORNEY REPORT
- H. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE PLANNING COMMISSION AND LIAISON REPORTS
 - 1. Report of the Presiding Officer and members of the Planning Commission
 - 2. Council Liaison to Planning Commission
 - 3. Planning Commission Liaison to City Council

I. COMMUNITY FORUM

Members of the public wishing to address the Commission on items not on the agenda are requested to submit a completed speaker card to the Secretary. The Commission may take information but may not take action on any item not on the agenda.

J. CONSENT CALENDAR AND APPROVAL OF THE AGENDA

Consent Calendar items appear below in section K, with the Secretary's or City Attorney's designation as such. Members of the public wishing to address the Commission on Consent Calendar items are asked to address the Secretary and submit a completed speaker card prior to the approval of the agenda. Such requests shall be granted, and items will be addressed in the order in which they appear in the agenda. After making any changes to the agenda, the agenda shall be approved.

All matters are approved under one motion unless requested to be removed for discussion by a commissioner or any member of the public.

K. PUBLIC HEARINGS

- 1. Use Permit 05-0024 is a time extension of an approved use permit to develop 14 live/work units located on Broadway between Garibaldi Dr and Sala St. Proposed CEQA Action: Exempt. Staff Planner: Sara Welch, 648-4327. [Consent]

Staff recommends **approval** based on the findings and conditions.

- 2. Use Permit 08-0001 is a application to operate a personal training studio within an existing warehouse/office space located in the 7 Flags Business Center at 145 Valle Vista Avenue #D. Proposed CEQA Action: Exempt. Staff Planner, Marcus Adams, 648-5392.

Staff recommends **approval** based on the findings and conditions.

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L. OTHER ITEMS

None.

M. ADJOURNMENT

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MINUTES

A. The meeting was called to order at 7:00 p.m.

B. The pledge of allegiance to the flag was recited.

C. ROLL CALL:

Present: Harrington-Cole, Gourley, Manning, Legalos, Peterman, McConnell, Turley.

Absent: None.

D. APPROVAL OF THE MINUTES.

Commissioner Peterman: I move that we approve the minutes of January 23, 2008.

Please vote.

AYES: Harrington-Cole, Gourley, Manning, Legalos, Peterman, McConnell, Turley.

NOS: None.

ABSENT: None.

It is unanimous. Motion carries.

E. WRITTEN COMMUNICATIONS

None.

F. REPORT OF THE SECRETARY

Don Hazen: Mr. Chair and members of the Commission: The first thing I wanted to announce in case you weren't aware is that the City Council has appointed a liaison to the Planning Commission. It will be Council member Hermie Sunga. The second item, I am looking for a volunteer to serve on our Mobile Home Park Conversion Task Force. In case you are not aware, several months ago the City Council passed a moratorium on mobile home park conversions to allow staff to look at our existing ordinance for park conversions and to explore what the laws allow for us in terms of crafting customized regulations that would suit our city's needs. Because this is an issue that the City Council felt warranted a moratorium and they passed the findings for a moratorium, we have a work plan that was shown to the City Council at that time which shows work being conducted until October of this year which involves the creation of this task force made up of members of the Mobile Home Rent and Review Board, a member of the Planning Commission staff, legal assistance from our City Attorney's Office, and there very well may be some additional members from the public at large. We have not yet finalized that but we definitely were looking for one Planning Commissioner to have representation and then what we expect to do is to start forming this task force and hold our first meeting. We are running a little behind schedule, but possibly, next month and we can start soliciting input from the public as far as what we should be looking for as a City. I don't anticipate a lot of work hours for the volunteer that would be inclined to join us on this task force, but we are looking at most staff doing a lot of the research work and then letting you know when those public meetings would be and involving you with some policy discussions as far as directions we might want to head eventually to bring something back to the Planning Commission for a recommendation to the City Council in

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the way of ordinance amendments. Mr. Chair: If we would maybe have an interested member that would like to volunteer, I would be glad to . . .

Commissioner Peterman: I am sure the Mobile Home Rent and Review Board shall be here anyway, so if I could do double duty; I would be glad to.

Don Hazen: Okay. I will take that but maybe we could also ask the Mobile Home Rent and Review Board if they want to kick in an additional person for more representation. Just one final note on your agenda Item Two . . . One is being proposed as a consent item this evening and so, as you work down through the agenda, there will be an opportunity for you to adopt the Consent Calendar and approval of the agenda, and I just wanted to let you know that there is one item that we would like to have included in that.

Chairperson Legalos: May we have the City Attorney's report, Ms. Quintana?

G. CITY ATTORNEY REPORT

Claudia Quintana: Good evening, Commissioners. I do have one thing to say tonight about that, and that is I would like everyone to look at the possibility of enrolling for the Planners' Institute which is going to be on March 27. This is a program that is put together by the League of California Cities. It is a wonderful, wonderful program, and I can't say enough good things about it. It would be full of Commissioners like yourselves and planners from all over California as well, so if there is any possibility of your attending; I would really encourage you to do that. It is in Sacramento.

H. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE PLANNING COMMISSION AND LIAISON REPORTS

1. Report of the Presiding Officer and members of the Planning Commission – None.
2. Council Liaison to Planning Commission. Councilman Sunga is not here.
3. Planning Commission Liaison to City Council – None.

I. COMMUNITY FORUM

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Chairperson Legalos: None. I have one concern about Item K-1. I don't know if we need to pull it off the Consent Calendar because it is actually a Code Enforcement issue, I believe.

Claudia Quintana: You can move to continue that. Actually you can make the request that it be pulled off the Consent Calendar and it will just remain as K-1 on the regular calendar.

Chairperson Legalos: What I am asking is: Do we have to take it off the regular Consent Calendar to bring up a Code Enforcement issue?

Claudia Quintana: Yes, you do.

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Chairperson Legalos: We do. Okay. Thank you. Then, I am going to ask that Item K-1 be removed from the Consent Calendar. May we have a motion to approve the Consent Calendar and the Agenda, please?

Commissioner Peterman: I move that we approve the Consent Calendar and the Agenda as modified.

Chairperson Legalos: Please vote.

AYES: Harrington-Cole, Gourley, Manning, Legalos, Peterman, McConnell, Turley.

NOS: None.

ABSENT: None.

It is unanimous. Motion carries.

J. CONSENT CALENDAR AND APPROVAL OF THE AGENDA

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Chairperson Legalos: May we have item K-1 please.

K. PUBLIC HEARINGS

Comment [d1]:

1. Use Permit #07-0001. Application for a catering/banquet hall located at 1922 Broadway. Proposed CEQA Action: Exempt. Staff Planner: Don Hazen, 648-4328.

Staff recommends approval based on the findings and conditions.

Don Hazen: Typically if it is just a question and you do not need the full Staff Report, then I would just make myself available to hopefully answer any questions that you might have on this.

Chairperson Legalos: The concern I have is that when I went over there, I found that there was a camper trailer that is connected to the main building with extension cords and there is a port-a-potty, and it appears that somebody is living there and I believe that would be a code enforcement issue.

Don Hazen: Yes, we would refer that to Code Enforcement to have them investigate that, or, if the applicant is here this evening, you might wish to ask if that is the correct assumption, and I am not sure, City Attorney, whether we need to open the Public Hearing to ask the applicant a question on that.

Claudia Quintana: On that now that is off of the Consent Calendar, we should probably follow the same format that other items have, which is that if there is no staff presentation then we move to questions from the staff, and if there is no questions for the staff, you open the Public Hearing.

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Commissioner McConnell: Thank you Mr. Chair. I just had one comment or request and that is on a Condition of Approval, Planning Division Item A-2, which calls for the building exits on the north and south sides to remain closed but unlocked during the playing of any amplified music. It appears that there is a concern about crowd control as well as noise in the area. I believe that if we added a requirement that those doors be alarmed so that if they are open, there will be some sort of an activated sound device alerting the proprietor to that opening, they will be in a position to meet with the other requirements where they are supposed to keep people out of the parking lot.

Chairperson Legalos: If we are going to discuss this, I think we should probably have the Staff Report.

Don Hazen: Okay, this is an application for a Use Permit to establish a private banquet facility in an existing 3,844 square foot building at 1922 Broadway. Staff reviewed this for conformance with the Zoning Ordinance and the Goals and Policies of the General Plan. As the Staff Report indicates, the key things that were analyzed on this were compatibility with the surrounding land uses and the site and building design. There are a number of improvements being proposed with this application that in Staff's opinion, would improve the existing condition, and those include relocating two access driveways and architectural enhancements to the existing building and installation of new landscape planners. The use itself being approximated as single family residences to the east did concern staff in terms of noise but, based on the design of the building, there are no doors or windows facing that east property line, and there were doors on the north and south elevation which Commissioner McConnell noted. That was just to try to contain any spillover noise, so we didn't want to have those doors open as part of their normal operating procedure. We also felt that there was concern about as the customers or the tenants of these buildings leave these events and would congregate in the parking lot. We were concerned about that noise that would spill into the residential areas and the slamming of the doors or the laughing and just the congregating. The applicant had proposed a parking lot attendant be on duty during all the hours of use of the building, and so staff was encouraged by that and felt that we would assign some responsibility to that person to kind of oversee the site and enforce these Conditions of Approval. So, with those conditions in place, staff felt that it was a compatible land use. So, we are recommending approval with a number of conditions. I will just highlight some of those key conditions beyond the standard. The parking lot attendant, of course, will be there to facilitate the orderly dispersal of patrons from the site. We do not want to see any unnecessary outdoor congregating or loitering. The hours of operation are key on this one, and it is based partially on the applicant's request but also staff's recommendation that we not let them stay open too late, even on Friday and Saturday nights. The proposed hours of operation are 9 am to 10 pm, Sunday through Thursday, and 9 am through midnight on Friday and Saturday. The applicant had initially been requesting midnight seven days a week. We have also asked for a lighting plan to be submitted in conjunction with the construction plans to be sure that the design of the lighting doesn't cast glare on the adjoining properties, and the architectural changes are highlighted in your Staff Report, and staff feels that the new exterior siding really will enhance what is there currently. I am not aware of the trailer being used on site right now so that would be something that we could certainly follow up on in code enforcement and we certainly would be agreeable to modify Condition A-2 in which Commissioner McConnell has suggested that those doors remain closed but also would trigger an alarm if they are used. The applicant is aware of these conditions and concurs with all of them. I am available to answer any questions that you might have.

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Commissioner McConnell: One last question, Mr. Hazen. The recommendation of staff is to have the applicant provide some landscaping. Would that be consistent with the landscaping ordinance that this Planning Commission has passed, but it has yet to reach City Council?

Don Hazen: The landscape plan will be reviewed for conformance with whatever is in effect at the time those construction plans come in and we are also planning on taking that ordinance to City Council within the next two months, which I think maybe is probably the more important answer that you are looking for.

Commissioner McConnell: It is. I would like to see them comply with the landscape ordinance that we have approved, even if it is not approved by City Council or is delayed in approval by City Council, so I would make that request as part of the Conditions of Approval for this project as well.

Commissioner Turley: Thank you. Mr. Hazen: There seems to be a main structure there which I am going to assume is where this project takes place, but, on the right there is kind of a substructure, and on the left, as has been referred to before, as having a trailer and a port-a-potty there. Now, will the restaurant be where the main structure is?

Don Hazen: You are right. It is not really a restaurant. It is just a banquet facility that can be rented, but it is the main structure.

Commissioner Turley: Will there be anything done about the structure on the right?

Don Hazen: There are actually two components to the main building that they will be using, so, and all other structures on the property will be removed. So, I am not sure . . . there is a lot of storage activity and substandard structures and things on the property that will be removed to make way for the improved parking lot design.

Commissioner Turley: So, the trailer, the port-a-potty, and everything . . . that all goes.

Don Hazen: That's correct.

Claudia Quintana: On the issue of the proposed landscaping ordinance, I was going to make a comment to that. Right now, it is just a proposed ordinance and it would not be appropriate to enforce that as a law since it has not been adopted by City Council yet.

Chairperson Legalos: There being no further questions or comments from the Commission, I will open the Public Hearing. We have no cards on this item, but does the applicant or owner wish to address the Commission?

Clarence Turner: My name is Clarence Turner, and I own that property. I will answer any questions that you have. I think you had some questions about a trailer and a port-a-potty. The trailer was just brought there since the building hasn't been used. There was a lot of activity in this area, maybe in the last several years, of a lot of break-ins. So, this was just to kind of slow that down. That trailer and the port-a-potty will all be gone once we start construction. Any other questions?

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Chairperson Legalos: Did you want to add anything else?

Clarence Turner: Just to say that the building and the structure before was a liquor and grocery store which I owned and operated for over 25 years and I never, ever had any problems with the City. I have always been a good citizen. On the banquet facility. . . what we hope to do is to be able to bring a good looking building back into that area and also, I have been on the Board of Directors with the Boys and Girls Clubs, and we hope to use that to work with youngsters to train them. We are going to be doing some cooking. We are going to train some youngsters how to cook and how to do some things to earn a living so, I am hoping that at this point in my life that I can give a little bit back to the community.

Chairperson Legalos: Thank you very much. I will close the Public Hearing and bring the matter back into the hands of the Commission. May I have a motion please?

Commissioner Peterman: I move that we approve Resolution #PC0805, Use Permit #07-0001, with the conditions that Commissioner McConnell had about the alarm .

Chairperson Legalos: Please vote.

AYES: Harrington-Cole, Gourley, Manning, Legalos, Peterman, McConnell, Turley.
NOS: None.
ABSENT: None.

It is unanimous. Motion carries.

Chairperson Legalos: Ms. Marshall, may we have Item K-2 please?

2. Zoning Map Amendment #08-0001 concerning tobacco retailers Citywide.
Proposed CEQA Action: Exempt. Staff Planner: Don Hazen, 648-4328.

Staff recommends a **continuance** to a date uncertain.

Don Hazen: Mr. Chair and Commission members, this item again is another issue related to a moratorium the City Council has declared on tobacco outlets. In working with Claudia on this, we believe that we would like to do more further outreach to the community to gather input. We met, for example, with the Alcohol and Tobacco Coalition last week and received some good feedback from them and we would like to kind of build on that and do a series of outreach meetings so we are not prepared to bring this back before you at least for a few more months.

Chairperson Legalos: Thank you Mr. Hazen. Do we have a motion?

Commissioner Peterman: I move that we continue Item K-2.

Chairperson Legalos: Please vote.

AYES: Manning, Harrington-Cole, Gourley, Legalos, Peterman, McConnell, Turley.
NOS: None.
ABSENT: None.

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It is unanimous. Motion passes.

Chairperson Legalos: Ms. Marshall, may we have Item K-3 please.

3. Site Development #05-0007 is an application for a single-family residence in the View District located at 145 B Street. CEQA: Categorically Exempt. Staff Planner: Don Hazen, 648-4328. *This was continued from the meeting of December 3, 2007, but staff recommends a continuance to a date uncertain.*

Don Hazen: Mr. Chair and members of the Commission: Status update on this . . . You had directed staff to facilitate a neighborhood meeting on this item. I conducted that meeting a couple of weeks ago. The meeting, in my opinion, was very productive, and I believe there was a concensus reached on how that design can be modified. I spoke with the applicant yesterday to get an update on where they are with that, and they are still deciding whether they make those changes or not and whether they have the budget to proceed with the project so I would expect to get feedback from them within a week as to whether they will proceed. We will have a follow-up meeting with those neighbors out at the site with revised strings, and tape, and story poles, and get that one final confirmation that that modified design still meets with that broad acceptance of the neighborhood, and then I would bring that back before you. So, I am not ready to commit to a date. What we would like to do is just re-notice it again.

Chairperson Legalos: Do you have any idea at all as to when that would be? There is a great deal of concern about this project having dragged down for going on 11 years now.

Don Hazen: I asked the applicant if he could get back to me within a week so that I could begin to look for scheduling within a month. I am optimistic that the second meeting in March or the first meeting in April would be when we would like to move forward with that, or, I would expect that they will give a withdrawal letter if they can't proceed with the project.

Chairperson Legalos: Again, my concern about this is the delays. I mean, more than a decade is, in my view, unreasonable, and so I would be more comfortable if there was some kind of time limit.

Claudia Quintana: Commissioner Legalos: I am sorry to interrupt but I would just like to remind you that you are disqualified from any opinion on this project, so I would ask that you refrain from making comments and actually not vote on even discontinuance. Thank you.

Chairperson Legalos: I won't vote on the continuance. I will relinquish the chair to Commissioner Peterman and continue my comments, or am I allowed to do that?

Claudia Quintana: No, you will have to recuse yourself.

Chairperson Legalos: Then, I will recuse myself. Thank you.

Don Hazen: I might just add if I could that staff is very well aware that we have an open Code Enforcement case on this and at some point we are going to tell the applicant, that if you don't withdraw your application, we will move it forward with the plan that you have submitted. You continued it at the last meeting and we will ask for a vote to dispense with the application one way or the other, but I

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truly believe that this was a productive meeting and if the budget will permit them to pursue the project, that we will have something back to you in short order. I don't feel that it is necessary at this point to put a deadline date and threaten to take it forward when we left that meeting kind of in a spirit of cooperation and on a productive note, so I am giving the applicant a little bit of time to mull this over before we play the Code Enforcement card on him.

Chairperson Legalos: Thank you Mr. Hazen.

Commissioner Turley: Thank you Mr. Chairperson. I feel like Mr. Legalos does. These people have been working on that a long time, and I am just wondering if there is any way that we can put this together and vote on it tonight.

Chairperson Legalos: Any other comments from the Commissioners? Anyone have a motion?

Commissioner McConnell: I move the continuance of K-3 to a date uncertain to be selected by staff and re-noticed as required.

Please vote.

AYES: Manning, Harrington-Cole, Gourley, Peterman, McConnell, Turley.

NOS: None.

ABSENT: None.

It is unanimous, with Commissioner Legalos abstaining. Motion carries.

Chairperson Legalos: Ms. Marshall, may we have Item K-4 please.

Commissioner McConnell: Mr. Chairperson, I must recuse myself on K-4 because of geographic presumption of undue influence.

4. Use Permit #07-0014 is an application for the establishment of a restaurant which will feature a microbrewery and grill located at 939 Marin Street. Proposed CEQA action is Categorically Exempt. Staff Planner, Marcus Adams, 648-5392.

Staff recommends **approval** based on the findings and conditions.

Marcus Adams: Thank you, Deborah. Good evening Commissioners. As Deborah just stated, the applicants are proposing to open a restaurant which would include a microbrewery and grill at 939 Marin Street. The proposed hours of operation would be from 11:00 am to 9:00 pm Tuesday through Thursday and 11:00 am to 10:00 pm. Seating capacity: Maximum would be approximately 46 patrons. The alcohol would be limited to just beer that's brewed on site, and they would offer some local wines. No live entertainment is anticipated with this proposal. I will show a PowerPoint presentation and we can observe.

The proposed location is located in what has come to be known as our Arts District. I want to make clear that this is in the middle of the Downtown Specific Plan Area which also has an Arts District but this is the outside of the Downtown Specific Plan area. Here we can see a few pictures of some of the surrounding studios there. There on the corner. Directly across the street at Florida and Marin. On this side here, across the street from the establishment which is right here on this corner, there is a studio here and there with some residential above. The issues that were associated with this proposal were two basically. 1) We had some neighbors who did express concern to staff about the alcohol sales in

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general, and then the potential was some of the patrons becoming noisy, and then the parking . . . the off-street parking. Here is the floor plan of the proposed restaurant. You can see here there is a small bar area where patrons can have service and have beer or wine and also have some food. Here is the dining area. This would be Marin Street here and Florida would face this way so the primary entrance would be kind of there on the corner. One of the issues that I had just talked about was the parking. And so, to address that parking situation, what staff has asked the applicant to do was to secure . . . there's a vacant lot approximately 100 to 150 feet to the left on Florida Street that is owned by the Knights of Columbus. The business owners are in the process right now of securing a parking agreement with the Knights of Columbus to utilize 12 to 15 spaces. Fifteen spaces is what is required for the restaurant here on this parking lot. As you will note, if you will look in the Conditions of Approval, we were recommending that this application be contingent on them obtaining this parking agreement, and they won't speak tonight, but they are close to securing that. They hope to have a letter of intent to the City by tomorrow and then they will finalize the Parking Lot Agreement which would have to be reviewed by staff, Planning, Public Works, Building, and then recorded at the County level. The parking lot is in pretty good shape. The Knights of Columbus has kept it in pretty good shape so I doubt there are going to be many improvements that need to be done. There is lighting on the parking lot and in your supplemental packet that was at your dais tonight. You probably saw in there a parking lot plan with what we call a photometric which did show that the lighting would be sufficient for the lot and would not become a problem as far as lighting glare on the neighbors.

I also wanted to talk about the other issue which was the concerns of the neighbors as far as noise and the alcohol sales. The first point with alcohol sales, staff believes that first of all the Vallejo Alcohol Policy Coalition and the Police Department reviewed these project and neither one of the two parties had issue with alcohol being served here at this site. Also, staff believes that with the proposed hours of operation and just the unfamiliarity with how microbreweries are established, that there is really not a fear of this becoming some type of a reveling bar type of situation where you are going to have patrons coming outside of the restaurant, creating noise and those type of things. If you have been to some of the microbreweries in the areas that are here in Solano County or outside the other area, when they are well run, they are just like any other fine establishment that just happens to offer selected beers or wines and that is what we presume this will be done as. From my conversations with the business owners, they seem like responsible individuals, long time Vallejo residents, who take pride in the City and in the neighborhood, so we feel confident that with the Conditions of Approval that are tied into this, that it will not become a negative impact upon the neighborhood. Regarding the issue as far as patrons coming outside and being noisy, once again, this is something that has to be controlled by business owners whether it is a microbrewery or whether it is just a regular restaurant. So, of course there is the ability because this is a Conditional Use Permit, that if there is a problem, this could come back before you, and there are ways to address that too. With that, I am available to answer any questions that you have. Oh, one other point that I wanted to bring out is that some of the language in here did refer to this as a Type 41 license. It is actually a Type 23, small microbrewery license and the difference being that they would have the ability to sell some of the beer and wine that is there for off-site sales. I just wanted to make that clarification and also that revised resolution that you had tonight, that was from other changes that were made as far as taking out that Type 41 language and putting in actually the permit that we would be issuing tonight. This is for the onsale general establishment. A few weeks ago, you will remember, we came before you with another proposal with Max's of Manila.

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There has to be a finding of public convenience and necessity. That would be done by the Department of Alcohol and Beverage Control and that is also a condition of this approval. Now I can answer any questions.

Commissioner Harrington-Cole: Marcus, I am looking at Condition No. 13 that talks about responsible beverage service and it says "within 10 days", but it doesn't say within 10 days from "what." . . . from the date the employee is hired, from the date the bar opens? It just says within 10 days. Can you tell me?

Marcus Adams: I believe it is within 10 days of after the 90 days. You see that first sentence there . . . it says also "within 90 days of employment" and then after that, 10 days from that point.

Commissioner Harrington-Cole: Are we going to see if we can have this posted?

Don Hazen: Right. That is in reference to a conversation we had last week. We may have talked about it or I have talked with other people about it where we could take it one step further and ask that those certificates be actually posted on the premises. Typically in other places I have worked, we have done that and they would be right next to where they have their alcohol license displayed and their City business license, and if the Commission is so inclined, we could modify that condition to require that as well.

Commissioner Harrington-Cole: I would like to propose that we add that to the conditions.

Chairperson Legalos: If there are no further questions from the Commission, I will open the Public Hearing. Does the applicant wish to address the Commission?

Fred Sessler: Good evening Mr. Chairman and Commissioners: My name is Fred Sessler. I represent the property owner and I represent the applicants, Ed and Karen Cummings and this is kind of new to them whereas you and I are used to this type of a situation.

Let me tell you why we chose this location. We did a little bit of microplanning on our own. We thought we'd give some additional activity to that area; maybe a restaurant would be fine. We also, in our thoughts to microplan this area, we wished to create a corridor up Marin Street from the Arts and Entertainment District along Virginia Street. Now, what I am finding out in working the Downtown area, we are failing in retail activity in Downtown but we are going to flourish in restaurant activity. We are doing another restaurant on Virginia Street, so in selecting this site for Karen and Ed, we wanted to create this as the northern boundary of the Arts and Entertainment District and, in fact, we planned to petition to the City to basically amend the Downtown Plan to take in the area all the way up to Florida and Marin Street. By doing that, by the way, it would put us in the Downtown and Marin Street. By doing that, by the way, it would put us in the Downtown Parking Management District where the parking would then be considered as it is for anybody else that opens up a restaurant in the Downtown area. So, that would be a great help to us. We also think that by creating this little corridor up Marin Street, we might complement the Vallejo Music Theatre in what their efforts are trying to be. They have a big investment. They are sitting there all alone. We have the Virginia Street District for restaurants and then with Ed and Karen up in the other end, this might create some great activity for the Vallejo Music Theatre which is kind of struggling right now. I just am here basically to let you know how we microplanned this particular location. We chose

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not to build on Georgia Street. We think this is a good neighborhood location and we think with the parking we had lined up now and maybe with the parking in the future, whatever happens to the Downtown Parking Management Plan; we will be able to survive there. There is a considerable investment on behalf of the property owner and the applicants who will be running the place. In the audience is John Howland, the architect, in case there are any technical questions regarding the architectural completion of the building, the floor plan and layout. He is here, but I just wanted to let you know how we went about this location, and I think you are going to see it is successful Downtown, and basically, the success of the Empress Theatre which the community has invested considerable money in, will probably flourish better with the foods uses that we are bringing in. It is opposite of what we normally do . . . it is normally the retailer who brings in the food and in this instance, we are going to have enough food establishments to maybe help bring in some retail.

I want to introduce you to Ed and Karen, and if you have any questions about the operation, they are here to answer that.

Chairperson Legalos: Did you want to add anything?

Edward Cummings: No, I think with the parking we plan on having a Letter of Intent with the Knights of Columbus. Their Chairperson, Dino, has committed that to us, and he is just waiting for a couple of his board members to get back from out of the country. They are committed pretty much to signing a lease with us.

Chairperson Legalos: I see no questions from the Commission, so thank you. We have no cards on this, so I will close the Public Hearing, bringing the matter back into the hands of the Commission. No further comments? Do we have a motion?

Commissioner Peterman: I move approval of Resolution #PC-0724 and Use Permit #07-0014, as amended by Commissioner Harrington-Cole.

Please vote:

AYES: Harrington-Cole, Gourley, Legalos, Peterman, Turley.
NOS: Commissioner McConnell recuses himself.
ABSENT: None.

It is unanimous. Motion carries with Commissioner McConnell recused.

Chairperson Legalos: Ms. Marshall, may we have Item K-5 please?

5. Use Permit #07-0017 is a request to serve premium beer and wine at Montana Eddie's Sports Pub and Grille in downtown Vallejo. Proposed CEQA Action: Categorically Exempt. Planner: Marcus Adams, 648-5392.

Staff recommends **approval** based on the findings and conditions.

Marcus Adams: I would ask that we take a short recess while Mr. Raymond gets his PowerPoint presentation prepared. If he doesn't get this up in a few minutes, I am prepared to go ahead and do the presentation without it.

Chairperson Legalos: Five minutes? Is that okay?

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Marcus Adams: Less than that, he says.

Chairperson Legalos: Okay, we will take a three minute recess.

Chairperson Legalos: We will reconvene.

Marcus Adams: This is an application to serve beer and wine at a proposed establishment named Montana Eddie's Family Restaurant here in Downtown Vallejo on Georgia Street with a sports theme environment and the proposed hours of operation will be Monday through Saturday 11 am to 11 pm during our football season and 9 am to 10 pm during the non-season and then 11 am to 8 pm. This is kind of convoluted there so if you have any questions on those hours of operation, I will be happy to explain that to you. The restaurant will be located on the lower level of the Georgia Street mall building which was formerly occupied by an establishment called Banana Q. Now we can observe a short presentation.

There is a picture of the building. You can see here this is the entrance for where Montana Eddie's will be located.

Chairperson Legalos: Excuse me, Marcus, we have an issue here. Commissioner Manning?

Commissioner Manning: I am sorry, I just realized I need to recuse myself because of the building downtown. My mistake.

Marcus Adams: So this is the picture of the location here on Georgia Street and here is a picture of the seating area in Montana Eddie's. You can see here there is a small counter bar area which I will get into a little bit later, and the dining area. The dining area, if you have been inside of the restaurant, is kind of segmented. It is an open floor plan. This would be the main area where you have the large screen with tables. These are some booths here and another view of the dining area. The major project issue with this proposal was the area around the alcohol sales and the business plan itself. And, so, to address that issue and give you a little background on that issue as far as . . . well, the applicant is going to speak tonight so I am sure he will be able to answer some questions, but briefly, as far as his original business plan, it was more geared towards maybe a more sports theme environment with less of a dining emphasis. After talking with staff and the community, the business owner decided to modify that business plan so it would be oriented more around a dining true restaurant atmosphere, of course we do have the conditions that are related to that. One of them would be that there would be no bar service only, so in other words, this area here has been modified but not totally eliminated totally, but having it more amenable to service of food here. The counter would be enlarged and the bar would be shortened so that food could be served here at all times and we also recommended as a Condition of Approval that this bar area not be allowed to operate unless the dining area is open at all times. As I mentioned in our previous permit that there is the potential for suspension or revocation of Conditional Use Permits, and of course that is why we have this process, for these type of uses, so that we can put these types of conditions on it. Any change of operating hours would require Planning Division approval. You received also tonight the recommendation from the Vallejo Alcohol Policy Coalition. Like I said, I will leave that open for the applicant to speak to and then I will also be able to answer questions related to anything on that issue. So, with that, I am available to answer any questions you may have.

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Commissioner Harrington-Cole: Marcus, is there RVS training condition in this?

Marcus Adams: It should have the same conditions as the previous one did, and if not, we can add that. Let's see, if you look at Condition No. 13 on page 4 of the Conditions of Approval . . .

Commissioner Harrington-Cole: And, I would like to ask that we amend that to say that it is posted as well.

Marcus Adams: Okay.

Chairperson Legalos: If there are no further questions from the Commission, I will open the Public Hearing and ask if the applicant wishes to address the Commission.

Gene Lee: I am the owner of Montana Eddie's, if you have any questions. I would be glad to answer them.

Commissioner McConnell: There are a number of issues that the Vallejo Alcohol Policy Coalition has raised in this Memorandum that is dated February 21, 2008. Have you had an opportunity to review this memorandum?

Gene Lee: Yes, I think the problem arised when I first got to Vallejo over a year ago and I decided that I was going to make a sports bar. Then the problem became that after I met with George Vasquez with Fighting Back that he made it clear to me that there is really a problem in Vallejo with alcohol and some other problems so I decided at that point to modify what I had already put together. So, I removed all the neons for beer. You can buy a beer at the place but I got the impression that I shouldn't be advertising a lot of beer sales so my whole emphasis is in pizza and pasta and if you want to buy a beer, you can, but I would prefer that no one buys it without purchasing food.

Commissioner McConnell: Thank you for your comments, but the memorandum addresses some specific points such as a declaration that you would continue to advertise your business as a sports bar. Could you comment on that please?

Gene Lee: After I met with George, I don't remember ever advertising anything in that manner. I even changed the name to Montana Eddie's Family Restaurant.

Commissioner McConnell: Okay, so you are not going to be advertising the business as a sports bar?

Gene Lee: Absolutely not.

Commissioner McConnell: And, there is an issue in here that says that at first you indicated all the TV monitors would be kept in place but now you are only going to keep a few of them. What will you be doing with respect to the TV monitors?

Gene Lee: I have 15 TV monitors. They are all going to be removed except for two of them and the remainder will be flat screens. There will be six flat screen TVs and two smaller TVs just so that wherever you sat in the restaurant, you could see the TV.

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Commissioner McConnell: Okay, and did you also comment that at one time you had indicated you were going to take the bar away, and now, I guess you are going to do something else with it? What is going to happen to the bar?

Gene Lee: The bar is going to stay for practical reasons. First of all, if I remove the bar, from the carpenter that came in and looked at it, he would have to destroy it to get it out the door. It is 24 feet long. So, I didn't want to destroy the bar. The other issue was, could I modify it into a food counter and not have it look so much like a bar, and that I could do. I could put tile on top. I could put a backing and stick all the menus in it and I think that would suffice to take care of the image that we are only there for beer. I am not there for beer. I am there to serve pizza, pasta, and other beverages.

Commissioner McConnell: Okay, and I guess they have some concern about how the children are going to be managed with respect to where they sit in this area.

Gene Lee: Children are not allowed to sit at the bar because the bar stools are too high. We have some concerns about them falling out of the chairs because the chairs don't have backing, so children won't be allowed, but they can sit at any of the booths I have or any of the tables that I have.

Commissioner McConnell: Okay, and they seem to believe that based upon your menu offerings, you might encounter difficulty in meeting the requirements of a 67 percentage of sales coming from food requirement as compared to 33 percent limitation on alcohol sales. What are your comments on that?

Gene Lee: First of all, I don't know where they saw the menu. They must have somebody else's menu. My menu is three pages long, full of food, and then, there is a separate menu for beer and wine. So, I don't know whose menu they were looking at but this is the one I brought to the last meeting I went to, and no one looked at it, so I don't know which menu they are talking about.

Commissioner McConnell: Okay, do you have any other comments on this memorandum?

Gene Lee: No.

Commissioner Harrington-Cole: Just a couple of quick questions. You said you would prefer people order pizza or pasta with a beer. But, could I just come in and sit down and have a beer and a glass of wine and watch TV?

Gene Lee: No.

Commissioner Harrington-Cole: You are going to require then, not prefer. And, then you said 15 TVs and you were going to take away all but six and then you were going to have two flat screens?

Gene Lee: No. There will be two flat screens at the food counter so you can look in front of you. Then there is a sidewall where there will be two flat screens on one side and two flat screens on the other side.

Commissioner Harrington-Cole: So, there will be six TVs total?

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Gene Lee: Eight TVs. Two of the black and whites will be situated so that wherever you sat in the restaurant, you could watch the game or whatever is on TV.

Commissioner Harrington-Cole: Okay.

Chairperson Legalos: Thank you. If there are no further questions from the Commissioner, I will call the first speaker.

Kevin Buhl: Good evening. As part of the Coalition, I do express a few concerns that we heard this evening. 1) We have never been presented a menu, so I don't understand, and when we did question the gentleman about his restaurant; there was nothing really conclusive. The other thing is we have gone from a sports bar to a family bar to a family bar with 8 TVs, which to me is still a sports bar in that small area. 2) The other concern is the hours of operation which the Coalition has been worried about, being Downtown, open until 11:00 o'clock at night. Who is going to be there for service if things get out of hand? Police? With our budget cuts. . . so, the Coalition is very concerned about the different stories that we have heard about this place, the inconsistencies and everything, and I think something more coherent needs to be decided and the concern too, like I say, is 8 TVs in a small, little restaurant, is still a sports bar and everything you have talked about showing on TV is a sports bar. Is this town really ready for a sports bar, Downtown Vallejo, open until 11:00 o'clock at night.

Chairperson Legalos: Being no further speakers, I will close the Public Hearing and bring the matter back into the hands of the Commission.

Commissioner McConnell: Thank you Mr. Chairperson. If I may, I would like to pose a question to our legal advisor for her thoughts on the subject. The response to the question as to whether he would sell an alcoholic beverage to somebody who did not purchase a food item was that no, he would not do that. Does such a condition violate either any 1) alcoholic licensing law, or 2) run afoul of the Anti-Trust Act on a linkage question?

Claudia Quintana: I have no idea but I think for our purposes, what we need to think about is what conditions are rationally related to a legitimate government purpose, so to that extent, I would say that that is a permissible condition if you wanted to do that and after that, it would be sort of an enforcement issue for the Police as to whether or not they could enforce that condition.

Commissioner McConnell: Thank you. Mr. Hazen, do you believe it would be of any benefit if you offered to act as a mediator to address any of the concerns of the two various groups that have expressed tonight?

Don Hazen: Coming fresh off the 125 B Street one, I think I feel confident in that role. The other option is that we could take advantage of the Public Hearing forum that we have this evening and we have had input from the Alcohol Coalition and you have had input from the applicant. You have the findings in front of you and the staff report as far as what you would need to make. If you feel that you need to tighten up the parameters of the use such that you can make the findings for approval, then the Use Permit certainly allows you that discretion. So, it could get into things like the TVs. It could be whatever concerns you have, so certainly I could do that but I would also encourage you to see if we could try to work through it this evening since I think we have representation on both sides in the audience this evening.

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Commissioner Harrington-Cole: Well, on that theory then, I think 8 TVs makes a sports bar. I can't imagine going into a restaurant with 8 television sets going. The license goes with the business, not the applicant, so if we let this go through as it is and he sells the business, we could be in real danger of having a problem downtown. I would like to see this look more like a restaurant. I don't know what type of license this is. I am assuming it is a Type 47 which means that children are allowed in this establishment and I would like to see the bar not used as a bar, but mostly I am concerned about eight televisions, to start with.

Chairperson Legalos: I agree with that concern. I see no need for eight flat-screen TVs in a small restaurant. It does sound more like a bar . . . more like a sports bar to me.

Commissioner Turley: I have a little different slant on this project. If we don't have a sports bar in Vallejo, then I would say we are way overdue for one. It doesn't make any difference to me how many TVs they have in there. If they are going to serve beer and wine and food and people will go in there and eat and drink and watch the ball game on TV or whatever, I don't see any problem with that at all and I would hate to put so much restrictions on those projects similar to this on to the extent that maybe the applicant will decide? "Ah, man, this is just too much trouble." We need places like this in Vallejo, I think. It is another source of revenue which we are in dire need of, and as far as I am personally concerned, I am all for it.

Claudia Quintana: Following up on Commissioner Harrington-Cole's comments about the TVs, I would like to encourage you to articulate the reasoning as far as "How is this rationally related to the government purpose?" So, I would like to encourage the discussion if you are going to build up to a Condition of Approval.

Commissioner Gourley: It may be considered blasphemy by a lot of people, but I am not a big football fan and I don't often watch the games to a point where on Super Bowl Sunday, I took my wife to a movie and we wanted to stop someplace and have something to eat on the way home. We specifically were looking for a place without a TV because I don't care what place you went into, there was probably going to be one on with the game on. We found a place that didn't have a TV. I have been to several of the pizza places in town. They have multiple TV sets and there are kids and their parents in their watching a ball game or watching news, whatever they want. I think making a big issues of the TVs is a little . . . I think it almost borders on the ridiculous. I think the problem is that the reason we advertise and the signage on the front of the building was "Coming Soon, Montana Eddie's Sports Bar." Well, that has been softened and that has been dealt with. He has been very upfront, I think, telling us that he has done many things to take that stigma, if you will, away from it. I see the seating and whatnot and that doesn't look like what I have seen in the past, called a Sports Bar, and it looks a lot like a pizza place. With that said, I would certainly encourage the approval of the project.

Commissioner Harrington-Cole: I would hate to think that what we have open at 11:00 o'clock at night, downtown, is the Town House, Dunphys, Green's Liquor, and a sports bar. And, if we are going to build and Arts and Entertainment Center with the quality kinds of places like the microbrewery we just approved of, I don't believe this would fit into that image. I believe that a pizza parlor for children might have a television or two or maybe even three, but every bar that I have been in that is a sports bar, you are inundated with sports forced at you from every corner and this appears to me to be that same sort of venue. So, while I don't object to a television or two, I do think that for the Downtown image,

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we need to truly consider what we are approving and I don't think this fits the image of an Arts and Entertainment Center that we are trying to accomplish with upscale places like Baci's and the microbrewery. I would vote against this.

Commissioner McConnell: Mr. Chair, if I may, through the chair to the applicant or to Marcus. It has been quite some time since I have been in this physical structure. It is my recollection in the photographs, it is kind of an L-shaped room, I think. You walk in and there is an alcove to the right and the rest of it, you just go straight back. What would be the angle justification for having eight televisions as compared to six or four? What is the rational connection between the size, configuration of the room, the angles of the room, and the number of televisions?

Marcus Adams: The applicant had asked me to go in and take a look because of this whole bar situation and everything so I was able to go in without any interruptions and just kind of explore the whole facility. I think just in knowing because I have been in both sports bars and restaurants that are "sports bars" but I have gone there to watch a sporting event. The goal is when you ordinarily have a sports environment or if you are going to a restaurant to watch a sports event is that you are able to sit down at a table no matter where you are at and observe the sporting event, and I believe, from my personal opinion in going into the establishment, is that is why the applicant is proposing the number of TVs that he has. If you will notice even on the pictures here, there are some laws that do kind of preclude you from being able to see if you had maybe a limited amount of televisions for a sporting event without even having to turn your chair or turn your neck. Hopefully, that answers your question, but that is why the amount. It is not at the point where you could just put one or two and then everyone could see the event from a central location or central mounting of the television.

Commissioner McConnell: Well, granted one or two might not be enough and maybe eight is too many. I don't know. What would be a rational or reasonable number of television sets in this geographic location where people could see a television without having to bend their necks or move around?

Marcus Adams: Commissioner McConnell: I think that is a very good question. I think that is something that if you would trust staff, maybe I could bring someone from Police along with me, but we could actually go with the applicant and actually do a walk through from each table and location and staff could dictate where the televisions could be placed so that you could limit the amount of TVs but the applicant would still want to maintain his goal of all of the patrons being able to see without having to move chairs around or something like that.

Commissioner McConnell: That would make a lot of sense to me from a practical standpoint, and I am inclined to do that. Let me move on to the second issue, and that is, what's the image that we wish to create in the Downtown area, and I am one of the strong supporters of the arts and I participate in theatrical productions. I am in the theater, and I have done so for years, and symphony and everything else. But, to impose my ideals and my beliefs of what is proper for an art district, I think, is maybe a little arbitrary and capricious and maybe we are not supposed to be doing that. There are people who like to go to sports events and sports bars and, depending upon what play or what piece of music is being run at the local artistic center, or even an art gallery, they are apt to come in. If we start denying accessibility of groups within society that we don't particularly agree with, I think we are defeating the very idea of having an attractive location that serves many different interests, so I am inclined to not go

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along with the idea that we should not permit sports bars in the Art District simply because it is an Art District. I can understand the concern about the number of televisions. My concern in a place like this is always the noise level because I have damage from gunfire to my ears, but it is not the numbers, it is the volume, and, unless we can rationally relate the number of television sets in the geographic location to one or two or seven or eight; we are just acting blindly. So, I agree with your suggestion and I wish to accept it that you do go back maybe to a site line study and come up with an agreeable number. We can either continue it for that purpose or entrust you to do so. I think that Mr. Hazen may well advise us on those lines. So, that is how I see the situation and I am always interested in other comments as well.

Commissioner Turley: Thank you Mr. Adams. If you don't know the answer to this question, I would like the answer from the applicant. And, the question is: "Would all those TVs in there be locked into showing the same program at the same time?" Do you know the answer to that question?

Marcus Adams: Yeah, I can answer that, but generally I am not sure how he is going to operate it, so I will let the owner answer.

Chairperson Legalos: So, I will reopen the Public Hearing.

Gene Lee: I think the question is, "Will all of the TVs be on the same program at the same time.?" It depends. If there is a de la Hoya fight and I paid \$3,500 to show that fight, "yes, all the TVs will be on that fight." But, if you come in on a Saturday afternoon and there is not much on, there will probably be some basketball. There will probably be different things on. If the Little League comes in on the baseball, of course, we are going to put baseball on. There will be DVD machines so that we can put different tapes and stuff on and kids can watch that. Does that answer your question?

Commissioner Turley: I just had in mind . . . suppose a family, it seems like we are talking about so many TVs in this place, and, suppose a family went in and maybe the children would like to watch a children's movie or program or maybe cartoons, or the mother might be interested in something else while the dad watches the ball game . . . that would be possible?

Gene Lee: Absolutely.

Commissioner Turley: That is why you would need probably at least three TVs.

Gene Lee: The dining room is designed where there is almost 4,000 square feet going all the way back, and in the middle there is a short wall. That wall has two TVs on one side and two TVs on the opposite side. As far as the noise is concerned, normally we don't even turn up the volume during the day. It is at night when you are watching something special, like there is a de la Hoya fight and I paid a lot of money for you to see it, then that is a little bit different, then, of course; we would turn up the volume.

Chairperson Legalos: I will close the Public Hearing again and bring the matter back into the hands of the Commission.

Commissioner McConnell: My concern would be, of course, if they turn up the volume so high that it becomes a nuisance either on the street or to other tenants in that building, and I am not sure what type of soundproofing exists in that space. It has been several years since I have been in there but we may need to

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address some sort of condition that the sound not be permitted to go beyond the leased, enclosed premises as we just did with a banquet facility.

Chairperson Legalos: Do you want to comment on that, Mr. Hazen?

Don Hazen: Mr. Chair, I would like to kind of back up a little bit if we could and maybe follow up on Claudia's suggestion. Just to kind of reframe this application, we have got a restaurant that does not need a Use Permit. We have a Use Permit that is to serve beer and wine and I am hearing discussions about televisions but I am not hearing articulation as far as what is the linkage between the televisions and their ability to function as a restaurant or their ability to serve beer and wine in that restaurant. We have conditions in the applicant's own testimony that says I will only serve alcohol when I am serving food, and then we are hearing discussion amongst the Commission about a sports bar but what the application before you is, is a restaurant, and the City Ordinances already define a restaurant as saying that they have to derive 67% of their revenue from food. So, if, in fact, we get into the issue of the televisions, I would just ask that we somehow tie "What is the impact of the televisions on the beer and the wine or their ability to function as a restaurant?" and, that's where I am kind of a little confused as to where that conversation is going and I wanted to kind of jump in before there was a motion made because I think that discussion would help the debate a little bit.

Chairperson Legalos: I believe the stimulus for the discussion was a memorandum of non-sport opposition from the Alcohol Policy Coalition and the assertion here that it is in fact not a restaurant, but a sports bar.

Commissioner McConnell: Thank you Mr. Chair. I can see the connection between the number of televisions and the location of these televisions with the business plan to see food based upon the attracting of sports fans to the venue, and I think what we are really trying to do is find common ground here between two competing groups as to how many televisions can be placed at this location and under what restrictions they should be placed. So, Marcus made an excellent suggestion about doing a site line study when he walks through the premises, and I think we can probably resolve the number of televisions based upon a recommendation from staff after reviewing the premises with that thought in mind. I did have a question though about the requirements that 67% percent of gross revenues be from food sales, and that is, "How does the City actually authenticate that number?"

Marcus Adams: Annually what happens is that these receipts are not only supposed to be provided to the Department of Alcohol and Beverage Control, but we have within our Crime Prevention Department, a representative there. I believe it is Rick Ferrindo currently, who verifies that and usually he also checks in with someone from the VAPC on that. I have been a part of it on and off for the past five years where we do verify those, so that is how that is done.

Commissioner McConnell: Is that verification based upon statements provided by the business operator and do you just accept it on face value?

Marcus Adams: When I have been a part of it, they actually show the receipts. I don't know how they break down those receipts, but food receipts and alcohol sales receipts.

Commissioner McConnell: Okay, because I have represented the San Francisco Parking Authority where we had these problems as to how much revenue is

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being produced and we always used dual accounting cash registers to verify the report of the lessee as to the amount of receipts. Is there any such accounting procedure that the City follows on duplicate receipts or duplicate reporting other than on an annual as submitted basis?

Marcus Adams: I would have to do some research on that. I don't know that answer.

Commissioner McConnell: Alright. I am just trying to envision how do we actually ensure that there is compliance by a business operator with the required percentage of sales from food and alcohol unless we accept them on a face level? I think what you are saying is that you have got somebody in the Police Department that goes over the reports submitted by the applicant and that is about as far as it goes, which doesn't sound like much . . .

Marcus Adams: It is not just a report where the applicant writes what he wants to write on there. They do submit some receipt information. I don't know about this dual register or that type of thing. I don't know that detail of it.

Commissioner McConnell: Okay. Thank you.

Chairperson Legalos: I see Ms. Meitzenheimer is in the Chambers here. Would you like to address the Commission? If so, I will reopen the Public Hearing.

Commissioner Harrington-Cole: Could I address Commissioner McConnell's request? I am on the Alcohol Outlet Advisory Commission, and I have been there for six years. We have reviewed the receipts of one restaurant in those six years. They are not automatically given to the Police Department annually, and the Police Department does not have the manpower to even look at them annually. The one restaurant that we did was La Movita, and that was because a young person was in there, got drunk, and got raped, and when the Alcohol Outlet response team went to look, they had no food in their coolers at all. It is a nice number, but there is no way the City ever tries to audit or ascertain that that number is actually ever being reached at this point, and it will only get worse because beat health is now Rick Ferrindo.

Chairperson Legalos: Ms. Meitzenheimer: After you speak, would you fill out a card and give it to Ms. Marshall. Thank you.

Liat Meitzenheimer: The issue where we had a concern is the intent of the restaurant, and that is where we always run into a problem with what the intent is for the business. We were never clear about what the intent is. We heard just a couple of days ago, by the applicant, that he would allow people to come and have three beers without eating and now we are hearing tonight that he is not going to let anyone come in and just have alcohol. The whole concept of a family restaurant is not taking your child to go see a boxing match. It is very hard to have dinner and see a whole football game, so, when you have these type of events on TV, it would anticipate the person, the patron, staying on longer to be able to watch the game. You don't go there to eat and then, okay, "Let's hurry because it is half time so we are through and we have got to get back home." People go to restaurants where there are sports bars and where there are TVs to watch the event. So, it is hard to draw that parallel where it is a family restaurant where you are bringing kids and say, watching a boxing match, where the kids are not going to have any interest in it and you are only going to sit there for 45 minutes to an hour and eat your meal, and then you are going to get up and leave. So, our concern is that if you are having that type of atmosphere, it is not

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a family restaurant; it's a sports bar, and we have had too many occasions, and not to say that the applicant is one of them. We fully believe that he intends to have a legitimate restaurant. It is when the food starts failing then other means become available, and that becomes the alcohol. Rick Ferrindo is only one person, and we only get him every once in awhile to be able to do anything with the alcohol policy. The budget has been cut; they have cut the Community Service Department of the Police Department. They are not going to reinstate that. There is nobody to monitor that and what our concern is is that you put the policy in place in the front end instead of the back end when it after becomes a problem, and then you are taking away resources from the community because there are already cuts being done in the Police Department. There are not enough people who are going to be on patrol. We don't want to take away from the community because there is a bad business . . . not to say that this one would be. But, it is just too much of a parallel, a sports bar, and not a family restaurant when you are talking about purchasing a boxing match. I don't know anybody with small children who would go to the restaurant and take their kids to watch the boxing match. You are not going to watch the whole football game while you are eating dinner. You are going to have to stay on. So, what is the enticement to stay on? You are going to have to drink. And, when is the food service going to stop at night because I don't know any families that take their families out to start eating pizza at 9:00 o'clock or 10:00 o'clock at night that they would have to stay open until 11:00. So, there are too many things that have come up that are not answered, and so I am hoping that with the permit that is issued, that those issues are addressed so that we don't have to have the worry in the back end that this is going to be a problem. Downtown is already fraught with problems. All of them are at night; all of them surround alcohol, so until Downtown is built out and you have the type of people coming in and enough traffic coming through there, then you don't want to cause another problem that is going to take Police services out of the community. Thank you.

Chairperson Legalos: Thank you. I will close the Public Hearing and bring the matter back into the hands of the Commission.

Commissioner Gourley: A quick question to Don and the counselor. Have we ever had a discussion with the Planning Commission (I am fairly new), about a permit for a restaurant to include beer and wine where we discussed television sets and the numbers thereof? And, continuing with the question . . . if a restaurateur comes in, gets a permit to open to get the additional permit for the beer and wine service, and after the fact, puts in a dozen television sets, is he in violation of anything?

Don Hazen: Yes. Commissioner Gourley, in the short time that I have been with the City, I have not heard of this type of a debate, and I would just have to be honest with you that just so issues don't get clouded here . . . if this gentleman was just operating a restaurant, leave the beer and wine out of that for just a second . . . he could have 30 TVs. He could watch sports on all of them and there is nothing we could do to regulate what is showing on the TVs, how many he has, and it is questionable as to whether you have the authority now that you throw the beer and wine into that. What is the linkage now, which you believe gives you the authority now to regulate the number of TVs. You are still dealing with the restaurant. He wants to add beer and wine now to the menu and is saying: "Now, I am only going to serve this in conjunction with the food." And, you really are not able to regulate the number of TVs in a restaurant or the programming on those TVs and ultimately, the market forces will determine whether you have a popular restaurant at 9:00 or 10:00 o'clock at night and so, you know, I just need to . . . and the City Attorney can help as well . . . that we

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don't want to cloud the issues and unnecessarily regulate something that may be you are not in a position to regulate. I think if you have concerns about a restaurant which doesn't need your approval, and now you have the beer and the wine, let's articulate what is it about the beer and the wine that causes you now to intervene in his restaurant operations that you would not otherwise had the authority to do, and I am still a little unsure that we have made that linkage, and as it comes time for a motion, I am sure the City Attorney will be listening to the facts that are leading to these findings because I am just not hearing it and the staff person is suggesting maybe going out and looking at site lines and this and that. I still think this is missing the most fundamental point which is that it is a restaurant. He can put as many TVs as he wants in there. If noise is an issue, well, noise as a nuisance issue exists theoretically in every business we have in town and we have the enforcement ability to go in if it is creating noise. In fact, we heard at the Alcohol Tobacco Coalition on Manila karaoke restaurant that his neighbor had a night club where booming noise was coming through in his business and the City dealt with it and I guess it is not a problem anymore and so I just wanted to try to bring this back to the more fundamental discussion, and I am not recommending you take a position one way or the other, but please help us determine whether we are going to have sufficient findings when the motion comes around as to what is it about the TVs now that you feel should be regulated that you would not otherwise be able to regulate.

Chairperson Legalos: Mr. Hazen: My sense of this is that it is not a concern about the TVs, it is a concern about the City's inability to ensure the requirement that two-thirds of the sales be food that is causing the concern here. This could become in fact a bar, and we would not be in a position to do anything to ensure that that doesn't happen.

Don Hazen: Well, and if that is the concern, that is an easy fix. We craft a condition in there that gives you those assurances that it will be confirmed as 67/33, and we realize that right now we have actually had meetings with the Police Department where they have suggested that we amend our ordinance to require that those annual receipt reports be submitted to the Police Department. They would keep them on file and they, themselves, admitted that they wouldn't look at every one of those. They would look at those problem cases as they crop up, and looking at the 67/33 split would be just one of the many things that they would investigate so in this particular case, if you are not comfortable with the existing regulations that are in place for verifying that it would maintain a restaurant operation, then you certainly could suggest other measures that will give you those assurances. Those are the things that a Use Permit is intended to accomplish.

Chairperson Legalos: Well, I can't speak for Commissioner Harrington-Cole but that would satisfy me and that would allay my concerns about this although I must say that Ms. Meitzenheimer made some excellent points, in particular, about people not going to a restaurant to watch an entire football game or to bring their kids to watch a boxing match, but, again, I don't believe that we are in a position to regulate that sort of thing. I would have to agree with you on that.

Commissioner Turley: I think Mr. Hazen has made this as clear as a bell, and, Mr. Chairperson, I would just like to make this sure 100% that I understand this memorandum from Ms. Meitzenheimer. Is Ms. Meitzenheimer opposing the serving of any alcoholic beverage at this restaurant. Yes or no?

Chairperson Legalos: Well, I can't answer that question . . . sorry. If you won't ask Ms. Meitzenheimer, I will open the Public Hearing again.

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Commissioner Turley: I would like to know that please.

Chairperson Legalos: I will re-open the Public Hearing.

Liat Meitzenheimer: No, we are not opposing the permit for the beer and the wine but the suggestion of having an annual monitor so that they are turned in in case we need to have it, and not putting that on the Police Department, and not putting that on the community but to have an annual report sent into whatever powers that be, so that if there is an issue, that you have those receipts available without having to find somebody within the Police Department to be able to facilitate that.

Commissioner Turley: And, again, what are you opposing?

Liat Meitzenheimer: I am not opposing . . .

Commissioner Turley: It says here that you vote to oppose this application.

Liat Meitzenheimer: We are not opposing the beer and wine. The opposition came because we got conflicting information from the applicant about what his business plan was. We have heard three different stories within the last year of what this business is supposed to be about. We just had a Vallejo Alcohol Policy meeting, and at that meeting he said, "If you want to come in, I will let you have two or three beers without having anything to eat, but after that, I expect you to eat." And, he came here and said: "I am not going to let you drink any alcohol unless you order something to eat." So, we are just confused about what the business plan is.

Commissioner Turley: So, you are saying he changed his mind?

Liat Meitzenheimer: I don't know what he did; you would have to ask him that.

Commissioner Turley: I thought you just said . . . they were not going to serve beer by itself.

Liat Meitzenheimer: That's what he said tonight. That is a different story, and then two weeks prior to that, or three weeks prior to that, he told us that he had a different plan and thought he was taking the bar out. He was taking the TVs out, he was just going to be strictly a family restaurant. The second time he came to us, he said he would serve alcohol . . . up to three beers without serving any food, that he wasn't taking the bar out. Then, tonight he had a different story again, saying that he's not going to serve alcohol unless you buy food. So, we just don't know what his business plan was and we weren't feeling safe enough to say that we would not oppose this business.

Commissioner Turley: Now that you know that he has changed his mind, would you still oppose this?

Liat Meitzenheimer: If you have the safeguards in place, then we wouldn't have a problem with it.

Chairperson Legalos: Commissioner McConnell, did you have a question of Ms. Meitzenheimer?

Commissioner McConnell: No, actually, I have a question of Mr. Hazen.

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Chairperson Legalos: Then I will re-close the Public Hearing, bring the matter back into the hands of the Commission.

Commissioner McConnell: Our concern as a regulating agency seems to be around the ability to enforce the 67/33 split, and what reporting requirements are able to be followed in this endeavor. We are faced with a drastically reduced City staff capacity. The Vallejo Alcohol Coalition Policy, I believe, is a volunteer group with some semi-official recognition from the City because all of the matters seem to be referred to them for their recommendations. If their concern is to ensure or require compliance with the 67/33 split, would it be feasible in your view to require an applicant to submit copies of their receipts to the Vallejo Alcohol Coalition Policy for their oversight as an independent watchdog group and their recommendation back to the Vallejo Planning Department, and if necessary, the Commission, if they feel there are any violations on an annual basis?

Don Hazen: My response to that would be "No, I would not recommend that you delegate the City's enforcement responsibility to a non-city entity, and the input that you receive from the Coalition is just a special interest group that you decide for yourselves what weight their testimony weighs on your opinion. If you believe that the 67/33 is critical and that it be enforced, we can suggest conditions such as, in this particular case, if it will allow you to make the findings because you are questioning whether it is going to operate in conformance, just off the top of my head; I could suggest things such as an audited financial report should be submitted to the Planning Department by December 30 of each year that breaks out the alcohol revenues and the food revenues. Then, it could be audited. . . you know, those financial auditing firms that are putting their own reputation at stake, and it could be submitted to the Planning Department because we are the ones that actually forwarded the Use Permit to you for your decision. So, it would seem that it could stay in the Planning Department. We don't need to pass that on to the Police Department.

Again, you would have to kind of explain why we are treating these people more harshly than other applications in the past, and you would have to articulate why and maybe, just throwing out things that we have heard this evening as there has been past examples of where the business plan has changed, and I know the Coalition had an issue of, I guess, credibility, for lack of a better word. After awhile, if the business plan changes frequently, they begin to doubt the message of the operator. You know, you are told something tonight. You can put that in as a condition. The applicant himself said: "I will not serve alcohol without food." Well, if you feel that you want to tie that statement down into a condition, you can certainly do that. And then, if you also believe that you are not comfortable with the existing City procedures for this particular business of verifying that as 67/33, then you can suggest the condition that will give you that comfort, but again, please tie it back to the findings and why this is being treated differently than other applications. I have gone on record as indicating that we are currently looking at better ways of tracking these financial reports, and the Police Department has admitted that they don't have the staffing capability of reading every single report for every single business in the City of Vallejo, so they have singled out the ones that are causing them problems. They first try to identify them right from the get-go before it even comes to you by looking at the floor plan, and the business plan, and if they even have suspicions in the first place, they don't even lend their support to the application. On this one here, the Police Department has lent its support, based on the project description. Well, the project description has changed, and what you have heard this evening, would appear to be perfectly in fitting with a restaurant. In fact, in most restaurants you

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can go in and order just a drink. So, the applicant has offered, and; it's on the record, of tightening up that restriction. So, you can take him at his word, put that in as a condition, and deal with the 67/33 report on how you want to deal with that. Sorry for the long answer, but I am trying to stimulate some thought here.

Commissioner McConnell: I think we are all trying to do that.

Claudia Quintana: I originally had one or two responses to concerning Commissioner Gourley's comment about how could we regulate the TV size or the TV number in the restaurant, and I have yet to hear anything that would give you the right to say, "No, that is too many TVs." I don't think I have heard anything articulated that would give you a rational basis for limiting the number of TVs. As I stated before, it needs to be tied back to the legal findings, and I would also like to actually discourage any conversation about enforcement. This body does not exist to enforce anything. Neither does the other body that has commented on this. So, to the extent that you are worrying about: "How can the Police do their job?" I think that is outside of the jurisdiction of the Commission. To the extent you can think of Conditions of Approval that will facilitate your job in making the findings under the resolution, then certainly feel free to do that but I think this is away from what we should be doing, which is finding whether we should give this permit a chance or not. Just because maybe we believe that the applicant has changed his story a few two times or perhaps there is another body of citizens who don't trust the applicant . . . I just wanted to point out that what we need to be looking at is the findings. Can we make those findings or not?

Commissioner Gourley: I guess, just a couple of comments. Number one, I believe the applicant has probably changed his business plan at the request of the people that he was asked to meet with because they had concerns, and he may have changed it several times. Again, looking at the findings that we are required to find, I don't see in any of them that we need to discuss the number of TVs, and there is already a law on the books about the 67/33 issue. The only thing that concerns me, and I have heard it from several people tonight, is the budget crisis of the City of Vallejo. What we are doing here tonight if we deny this, is that we are denying revenue once again to the City that can go on and on, and it just escalates itself continually. We have a never-ending circle of defeat. That's my comment.

Commissioner McConnell: I wanted to return to the question of enforceability, and my inquiry as to whether or not receipts could be provided from any applicant to the Vallejo Alcohol Policy Coalition was not meant to say that they would be the only auditing party out there but rather provide them with what might be construed as a courtesy copy so that if they wish to exercise rights as a watchdog, special interest group, they would be in a position to do so, and it might be of further assistance to the City given our limitation on staff and their ability to investigate the reporting of the 67/33 split. So, I had no intention whatsoever to make them the responsible authority under the law. That would remain with the City, as it would have to, but simply to provide to them some way of working as a watchdog agency which I think is a good thing in a democratic society, is to have somebody looking over your shoulder from time to time. As you said, I believe in the concept here. I am prepared to make findings in favor of the application without any consideration to the number of TVs. I can see possibly tying the requirement to have food served with alcohol because of the statutory language requiring a 67/33 split, but I have some reservations about the validity of that requirement under the Anti-Sherman Trust Act, quite honestly. I think that is a linkage, and I think that is what the anti-trust laws are designed to prevent so I am not sure if I want to go that extreme at this point, but my

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suggestion about having them provided with a courtesy copy so they can do their own independent analysis is something I would like to hear some response on from staff with the idea of being that the City would remain, as it should be, the responsible authority.

Don Hazen: Yes, Commissioner, and I apologize if I misunderstood the intent of it, but again, even to request that a courtesy copy be sent to the Coalition, and presumably that would be phrased as a condition . . . it goes back to what finding are you tying that to? Now, if the applicant wants to stand up on record and voluntarily offer this to the Coalition, then that is fine, but I just question whether you can mandate that regardless of the intent behind it because it goes back to a City decision that you have to make as far as whether this business should have a beer and wine license. And, the report being sent to the Coalition . . . I am just having a hard time tying that back to your mandatory findings that you have to make.

Commissioner McConnell: Okay, it seems like every time we have this type of an application before the Planning Commission, and this has been this way for the eight years that I have been here, we always have this philosophical discussion about enforceability . . . whether they can or cannot meet the 67/33 percent split; whether they are going to actually be a bar; whether they are going to be a restaurant. There seems to be a never ending problem, and what I have been trying to do is to brainstorm some ideas about how to address these concerns of both groups so that maybe we can prevent having to spend so many hours and effort upon this issue that is repeated and repeated and repeated. If the City doesn't wish to make courtesy copies available to this watchdog agency, I would presume that they would be at least available for inspection at the City's offices and they could come in on an as-needed or as-desired basis. Would there be any problem with that . . . not necessarily as a condition, but as a governmental policy?

Claudia Quintana: I wish to state that I think that all of this long discussion about enforcement . . . I am just going to go back to my initial statement that it is not within the realm of this Commission. Enforcement is not the role of the Commission, so to the extent that the Commission would like the Council, for instance, to take a more active role and make a recommendation that this watchdog agency take the responsibility for auditing bars, I think that is certainly Council's role to enact that kind of policy, but it certainly not this Commission's role to do that kind of policy. And, also, with regard to whether or not the separate Tobacco and Alcohol Coalition would serve as any kind of City sub-agency or contractor, the issues that would be raised are just too numerous to talk about right now. This is not the role of the Commission. This is what I have to say about that.

Commissioner McConnell: I appreciate those comments and I certainly understand that this is not our legally delegated position to take a position on this particular issue, but the reality of life is that this issue keeps re-emerging and re-emerging and continually re-emerging, and we need to at least make some sort of a request to Council to address this concern that is a never-ending concern so that we don't spend hours and hours and hundreds of hours of people's time, talking with applicants, saying we want this, we will live with that, we can do this. There really needs to be some further thinking on this issue, quite honestly, and if we can't do it here at the Planning Commission, I am prepared to accept that but I would like to see the problem addressed with a recommendation to the Council that they revisit this position and form some sort of a policy where supervision or auditing can be addressed because I think it is a little vague as a City policy.

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Don Hazen: I don't think it is inappropriate, Commissioner, for a Planning Commission to engage in policy issues that you would like to have the City Council consider, and what I would recommend on this particular subject is that we agendaize it at a future meeting as a study session or even a public hearing if you want to take testimony but, if you want to digress from the agendaized issues tonight and treat that as a separate policy discussion, then that is great, and I think the City Council would appreciate their Commission delving into policy issues as well and giving them recommendations, but I would like to have that structured more so that the public has the opportunity to at least know that we are having a policy discussion, what will come out of that as a recommendation of City Council, and that there is opportunity for the public to provide input and give you ideas that will help you formulate that policy. We just don't think from a legal standpoint, nor do I think from a procedural, just good policy making, that we should mix the two issues tonight, and if it is the wishes of the Commission for us to bring that back as a separate policy discussion, I would be happy to do that.

Commissioner McConnell: I would make that request. I think it is something that needs to be addressed and, if we can, I believe it should be a public hearing where testimony can be offered and taken as well as a study session . . . maybe a combined one, and we can do it at the availability of staff to schedule such a hearing on a date when we maybe don't have an extremely heavy calendar. So, yes, I would accept that suggestion. I think it needs to be done, and with that, Mr. Chairperson, I will offer the resolution of the package based upon the findings and conditions as stated in the application unless there are any amendments or requests for additions to the motion.

Chairperson Legalos: I would just like to make a general comment. It pertains to this application but it is a general concern of mine and, in particular, to Commissioner Gourley and Commissioner Turley, comment about the need to approve projects in order to help the City out of its current financial difficulties. I think we need to exercise discrimination and not see the City develop in a direction that many would feel not being in its best interests. I have been told that in the 1950's, one of the national news magazines ran a feature story on Vallejo because the City supposedly had the largest number of bars and brothels per capita of any city in the United States, and I would not like to see us move back to the position where we had that dubious distinction, so I think it is very important to maintain our discretion on these applications.

Commissioner Harrington-Cole: I am lost in the legalese. Is it or is it not appropriate at this point to ask that we audit these receipts in one year?

Claudia Quintana: I would discourage you from putting that as a Condition of Approval being as we have just approved two other alcohol permits and we didn't have those, so I think, unless you can articulate why this is different and, for this particular project, why this is an appropriate Condition of Approval and that is the only way that you can make the findings and the resolution, I would discourage you from doing this.

Commissioner Harrington-Cole: Then, I would request that we amend slightly to have the responsible beverage service training posted.

Don Hazen: I will agree with that. And, Mr. Chair, I would like to bring attention to the resolution in front of you, Resolution PC-07-24. We would like to suggest an edit to the 2nd page, under Section 3, Item 2, the impacts as described in

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Subsection 1 and the location of the proposed Condition of Use are consistent with the City's General Plan, and we would also add "and Downtown Specific Plan."

Commissioner McConnell: I will incorporate that into the motion.

Chairperson Legalos: Could you restate your motion please, Commissioner McConnell.

Commissioner McConnell: Yes, the motion was to approve the application based upon the findings and facts as stated in the staff report with the additional requirements that they post the requirements and the recommendations just made by Mr. Hazen, and the results be posted.

Chairperson Legalos: Thank you. Please vote.

AYES: Manning, Harrington-Code, Gourley, Legalos, Peterman, Turley, McConnell.

NOS: None.

ABSENT: None.

It is unanimous. Motion carried.

Don Hazen: Mr. Chair, before you adjourn, I would like to recognize our council liaison, counselor Sunga is sitting in the audience and I am not sure if he would like the opportunity to address the Commission, but before you adjourned, I just thought we might . . .

Chairperson Legalos: Thank you Mr. Hazen. I didn't see him come in.

Hermie Sunga: Thank you Mr. Chair and members of the Commission. I am very glad to see that you have worked unanimously on this application. I am here to offer my services to you if you need anything done in relationship to the council in the deliberation of the agenda. I am always available. If you need me, I will try to do everything to make your job easier and I am glad you made the right decision tonight.

Commissioner McConnell: I am glad you were here to hear this discussion because this type of reoccurring application brings up many fairly complicated issues most relating around the accountability that must be done by the applicant and the role that the Vallejo Alcohol Coalition Policy should be playing in this process. Our discussion tonight, I think, illustrated the difficulty we continuously find ourselves in when confronted with this type of an application. We had two applications where the Vallejo Alcohol Coalition Policy said it gave its blessing and a third one where it didn't, which led us down this path. We really need a policy from City Council clarifying this entire review process, and so, in your capacity as the liaison, I would ask that you meet with Mr. Hazen and begin to address this concern with the idea that we will eventually put this on calendar for a public hearing where testimony will be taken and we will make some type of a recommendation which hopefully will be acted upon by the City Council in proper time.

Hermie Sunga: Yes, I will do that, and just for information, the 67/33 split is a requirement of ABC, so I don't know how far we can go about changing that, but as far as the enforcement, our lawyer is right on the point on that.

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Commissioner Peterman: As the person who replaced you on the Commission, I would just like to say welcome back.

L. OTHER ITEMS

None.

M. ADJOURNMENT

There being no further business to discuss, this session of the Vallejo Planning Commission is now adjourned at 9:30 p.m.

Respectfully submitted,



(for) DON HAZEN, Secretary

**STAFF REPORT – PLANNING
CITY OF VALLEJO
PLANNING COMMISSION**

DATE OF MEETING: March 17, 2008
PREPARED BY: Sara Welch
PROJECT NUMBER: UP 05-0024 (Extension)
PROJECT LOCATION: Broadway between Garibaldi Drive and Sala Street
APN: 0052-143-200

PROJECT

DESCRIPTION: The project is a time extension of a use permit to develop 14 industrial live/work units. This use permit was originally approved by the Planning Commission on February 6, 2006. The expiration date of the permit was February 6, 2008. The applicant filed for an extension prior to the expiration date and is requesting a three year time extension due to a change in market conditions. The applicant has not made any changes to the project since the original approval.

RECOMMENDATION: Recommend Approval with Conditions.

CEQA: The project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and was determined to be exempt per Section 15332, Title 14 of the California Code of Regulations.

1. PROJECT DATA SUMMARY

Name of Applicant: Scot Hunter
Name of Owner: Cornerstone Properties Group, Inc. and R & K Ventures, LLC

Date of Completion: February 1, 2008

General Plan Designation: Employment
Zoning Designation: IU (Intensive Use)

Site/Surrounding Land Use:

Site: Vacant

North: Auto stereo shop

South: Single family residential

East: Vacant parcels and two single-story duplexes

West: Shopping center

Lot Area: 62,726 Sq. Ft.

Total Floor Area: Each unit has a ground floor garage and work space of 494 square feet, for a total floor area of 6,916 square feet.

Parking Required/Provided: 43 spaces required/43 spaces provided

2. BACKGROUND SUMMARY

On February 6, 2006, the applicant obtained approval for a tentative map and a use permit for the development of 14 industrial live/work units. The expiration date of the use permit was February 6, 2008. The applicant filed for an extension for the use permit prior to the expiration date and is requesting a three year time extension due to a change in market conditions. The applicant has not made any changes to the project since the original approval.

The proposed live/work units would be 1,620 square feet and would be developed as three story buildings with 494 square foot combined garages and work space on the ground floor and living space above. Five sets of duets would face Broadway and a townhouse-style four-plex would face the interior of the property, perpendicular to Broadway. An extension of the tentative map is not necessary at this point because tentative maps are valid for 3 years.

3. ANALYSIS

Zoning

The zoning designation for this property is Intensive Use. Industrial Live/Work uses are allowed in this zoning district with approval of a major use permit. The Zoning Ordinance requires that the work component of such uses be conducted by a person or persons making the unit their principal residence and that the work uses be limited to those allowed in the Intensive Use District.

General Plan

The General Plan designation for this property is Employment. As an industrial live/work project, the proposed project is consistent with this designation. Industrial Development Goal 2 is "to have a higher percentage of residents working in the Vallejo area." The proposed project provides 14 live/work units, providing local employment for each residential unit.

Industrial Development Goal 4 is "to maximize the potential of industrially zoned lands for the fostering of new and innovative industrial development." The policy associated with this goal is to "use the Planned Development approach in those areas where industrial uses will be compatible with accessory residential and/or commercial uses." Although this project is not a Planned Development, the general approach is similar. The use of the property as industrial live/work provides a use that is compatible with the residential uses directly adjacent, the commercial shopping center across Broadway, and the more industrial use across Garibaldi Drive.

Neighborhood Compatibility

The project is located on a main thoroughfare in a transitional neighborhood, with commercial uses across Broadway, residential uses adjacent to the east and south, and industrial uses to the north. The proposed live/work project would provide a buffer between existing and future residential uses and the more intense uses to the north and west. The design of the project also provides a transition from the strictly residential to

the commercial and industrial. Although the site design does not meet every standard for residential development, it does provide individual open space in the form of substantial third floor decks. With the restrictions imposed as conditions of project approval, the parking proposed is anticipated to be more than adequate for the potential uses of the project. The landscape buffer between Broadway and the buildings would maintain a landscape setback similar to those provided by other new development in the vicinity.

Building Design

The proposed building design is at the conceptual level. As a condition of approval, final design details shall be submitted to the Planning Division for review and approval. These details shall include but not be limited to providing a definite visual separation between units by a building indentation, trim piece, or other method, and providing dimensional trim around the windows and doors.

Height

Four of the units would face the interior of the property. This four-plex would be approximately 7½ feet from the rear property line. The adjacent property in the rear is developed with a single story duplex. Although the project is three stories high, the maximum height is 35 feet, which is the maximum height for the adjacent Low Density Residential district. To ensure the privacy of the adjacent residential development, windows on unit 4 that face east shall either be opaque glass or shall be located above eye level. In addition, a fence shall be constructed between the subject property and adjacent residentially zoned properties.

Public Comment

Notice of the proposed project was sent to: property owners within 500 feet of the subject property and the applicant on March 3, 2008. Staff received a phone call from a resident concerned about the height of the buildings. Staff provided information to the resident regarding the project's maximum height.

4. ENVIRONMENTAL DETERMINATION

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and was determined to be exempt per Section 15332, Title 14 of the California Code of Regulations because:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;
- b) The proposed development would occur within city limits on a project site of less than five acres substantially surrounded by urban uses;
- c) The project site has no value as habitat for endangered, rare, or threatened species;
- d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
- e) The site can be adequately served by all required utilities and public services.

5. CONCLUSION/RECOMMENDATION

Staff has determined that the extension of the use permit, as conditioned, results in a project that is consistent with the City's General Plan and Municipal Code, and all applicable ordinances, standards, guidelines, and policies. Therefore, staff recommends that the Planning Commission approve Use Permit 05-0024 (Extension) based on the findings and subject to the attached Conditions of Approval.

FINDINGS

1. The project is exempt from the requirements of the California Environmental Quality Act (CEQA) per Section 15332, Title 14 of the California Code of Regulations.
2. The location, size, design and operating characteristics of the proposed conditional use will be compatible with adjacent uses, building or structures, with consideration given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities, to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity and physical character of surrounding streets; and to any other relevant impact of the proposed use.
3. The impacts, as described in Finding 2 above, and the location of the proposed conditional use are consistent with the City General Plan per Section 7 of the staff report as conditioned.

EXPIRATION

This use permit shall expire thirty-six months after the expiration date of the original approval, or February 6, 2011.

APPEAL RIGHTS

The applicant or any party adversely affected by the decision of the Planning Commission may, within ten days after the rendition of the decision of the Planning Commission, appeal in writing to the City Council by filing a written appeal with the City Clerk. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by the City Clerk or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or City holiday, then the deadline shall be extended until the next regular business day.

Notice of the appeal, including the date and time of the City Council's consideration of the appeal, shall be sent by the City Clerk to all property owners within two hundred or five hundred feet of the project boundary, whichever was the original notification boundary.

The Council may affirm, reverse or modify any decision of the Planning Commission which is appealed. The Council may summarily reject any appeal upon determination that the appellant is not adversely affected by a decision under appeal.

ATTACHMENTS

Attachment 1: Resolution and attached conditions of approval

Attachment 2: February 6, 2006 Planning Commission Staff Report with Findings and Conditions of Approval, Meeting Minutes and Site Plans

Attachment 3: Conflict of Interest Map

Attachment 4: Project Photos

Attachment 5: Driving Directions

CITY OF VALLEJO PLANNING COMMISSION

RESOLUTION NO. PC 08-08

**A RESOLUTION OF THE PLANNING COMMISSION
APPROVING A USE PERMIT TIME EXTENSION
UP 05-0024 (Extension)**

*Time extension of a use permit to develop 14 industrial live/work units.
0052-143-200*

WHEREAS an application was filed by Scot Hunter for a three year time extension for a use permit to develop 14 industrial live/work units;

WHEREAS, The Planning Division and designated City Staff has reviewed the project in accordance with applicable regulations and have recommended conditional approval of the application to the Planning Commission, as set forth in the Staff Report dated March 17, 2008; and

WHEREAS the City of Vallejo Planning Commission conducted a duly noticed public hearing to consider the application for the Use Permit Extension on March 17, 2008, at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission;

WHEREAS, based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.

Section 1. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and was determined to be exempt per Section 15332, Title 14 of the California Code of Regulations because:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;
- b) The proposed development would occur within city limits on a project site of less than five acres substantially surrounded by urban uses;
- c) The project site has no value as habitat for endangered, rare, or threatened species;
- d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
- e) The site can be adequately served by all required utilities and public services.

II. FINDINGS RELEVANT TO USE PERMIT AND FINDINGS FOR PROJECT APPROVAL AND FOR DETERMINATION OF PROJECT CONSISTENCY WITH APPLICABLE GENERAL PLAN

Section 1. Planning Commission finds, based on the facts contained in the March 17, 2008 staff report incorporated herein by this reference, and given the evidence presented at the public hearing, and subject to the conditions attached to this resolution, that:

1. The location, size, design and operating characteristics of the proposed conditional use will be compatible with adjacent uses, building or structures, with consideration given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities, to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity and physical character of surrounding streets; and to any other relevant impact of the proposed use.
2. The impacts, as described in subsection 1, and the location of the proposed conditional use are consistent with the City General Plan per Section 7 of the staff report as conditioned.

III. RESOLUTION RECOMMENDING APPROVAL OF THE USE PERMIT EXTENSION APPLICATION FOR UP 05-0024 (Extension), SUBJECT TO CONDITIONS OF APPROVAL

NOW, THEREFORE, LET IT BE RESOLVED that the Planning Commission hereby APPROVES the Use Permit Extension application UP 05-0024 (Extension) to extend the approval of the original Use Permit for an additional thirty-six months based on the findings contained in this resolution and subject to the Conditions of Approval attached hereto as Exhibit A and incorporated herein by reference.

IV. VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Vallejo, State of California, on the 17th day of March, 2008, by the following vote to-wit:

AYES:
NOES:
ABSENT:

CHARLES LEGALOS, CHAIRPERSON
City of Vallejo PLANNING COMMISSION
Attest:

Don Hazen
Planning Commission Secretary

CONDITIONS OF APPROVAL
USE PERMIT #05-0024 (Extension)
(APN 0052-143-200)

PROJECT REQUIREMENTS

A. Planning Division

1. Prior to building permit submittal, submit a numbered list to the Planning Division stating how each condition of project approval contained in this report will be satisfied. The list should be submitted to the project planner who will coordinate development of the project.

2. Prior to building permit issuance, submit 3 sets of landscaping plans prepared by a registered landscape architect to the Planning Division for review and approval. Landscape plans shall comply with Chapter 16.70 (VMC), and are to include the following:
 - a. All portions of the building site exclusive of structures, parking areas, driveways, and walkways shall be landscaped.
 - b. a minimum of 10 City-approved street trees to be planted at least 6 feet from any sewer line;
 - c. specification of low growth type species adjacent to doors, windows, and walkways, with no vegetation that would allow persons to hide in the landscape areas;
 - d. low-water using and drought-resistant plant materials;
 - e. screening of required backflow preventer;
 - f. all trees to be minimum of 15 gallon, double staked; at least 50% of the proposed shrubs shall be a minimum of 5 gallon;
 - g. irrigation plan indicating all components of the irrigation system including sprinklers and other outlets, valves, backflow prevention devices, controllers, piping and water usage; and
 - h. 6 inch high curbing around planters.

Prior to occupancy/final building inspection, install landscaping and irrigation per approved plans. The landscape architect shall verify in writing that the landscaping and irrigation have been installed in accordance with the approved landscaped plans with respect to size, health, number and species of plants, and the overall design concept.

3. As part of the CC and Rs required under Public Works condition 13, residential use of each unit is conditional upon the “work” component of the use. No unit shall have residential use that does not also have a commercial or industrial use. The uses allowed must be in conformance with the uses allowed by the Zoning Ordinance for the zoning district.

4. The CC and Rs shall contain a restriction that prohibits the storage of RVs, boats, and trailers onsite. In addition, onsite uncovered parking shall be reserved for customers during normal working hours.
5. All uses shall be conducted entirely within the buildings. No outdoor storage of materials, equipment, or other incidentals to the live/work occupancy shall be allowed on the site.
6. The applicants shall work with the Planning Division to design a sign program for the entire project area that complies with the sign ordinance and complements the project design. Prior to final inspection/occupancy, the applicants shall submit the sign program to the Planning Division for review and approval.

B. Building Division

1. All air conditioning units shall be located in the rear yards.
2. All party walls shall be two (2) hour rated and sound transmission control (STC) 59.

C. Department of Public Works

1. Submit site grading, drainage, improvements, utility, and landscaping and irrigation plans for review and approval. Site plan shall show all proposed and existing improvements and utility services.
2. Submit a geotechnical investigation report for this development for review.
3. Surface runoff from this development shall be intercepted onsite and piped into the public storm drain system.
4. Sheet flow from the site over driveway approach is not allowed.
5. Install frontage improvements along Broadway that include but not limited to curb, gutter, sidewalk, driveway, standard bus parking bay, bus shelter pad, bus shelter, grading, pavement widening, any storm drain required and street tree as determined by the City Engineer and Transportation Department.
6. Install standard curb, gutter, sidewalk and driveway fronting the property along Garibaldi Drive.
7. Remove and replace broken sidewalk and driveway fronting existing home on Sala Street.
8. Install left turn pocket with minimum three feet wide raised median on south bound of Broadway at the intersection of Sala Street and Broadway. Length of left turn shall be 75 feet with 90 feet transition.

9. Dedicate required right-of-way, Public Utility Easement, and bus shelter easement along Broadway fronting the property as determined by City Engineer.
10. Dedicate required right-of-way at the NE corner of Broadway and Sala Street.
11. Establish common access, parking, drainage, and utility easements for the proposed subdivision on the final map.
12. Establish Homeowners Association for this subdivision. All private improvements shall be owned and maintained by the homeowners association.
13. Prior to building permit issuance, establish a Homeowners Association for operation and maintenance of private landscaping, irrigation system, drainage, fences and appropriate signage and hardware, private street light system, and other private facilities subject to the approval of the Planning Division, Public Works Director, and the City Attorney. The Covenants, Conditions and Restrictions of all deeds issued within the subdivision shall contain provisions requiring participation in the said Homeowners Association. The Homeowners Association must accept the above private elements of subdivision improvements prior to acceptance.
14. Prior to building permit submittal, submit Covenants, Conditions and Restrictions (CC&R) for review approval to the Planning Division, Public Works Director, and the City Attorney.
15. Submit an address map for review and approval.
16. Prior to recording the final, the owner shall pay the City charges required by Solano County for providing copies of the recorded map to the City (\$160 per lot/parcel).
17. Development of Parcel "A" would require a Site Development Permit.
18. Submit final map prepared by a registered civil engineer or licensed land surveyor for review and approval.
19. Signing and striping plan shall be per City standard. Submit signing and striping plan for review and approval.
20. Parking lot and driveway access shall not slope more than 5% in any direction.
21. Install required street trees fronting the property. Street trees shall be selected from City's approved street tree list.
22. During construction, it shall be the responsibility of the contractor to provide for safe traffic control in and around the site. This may include but not be limited to signs, flashing lights, barricades, and flag persons.

Additional standard comments that may apply are:

PW1 through PW17 and PW19

D. Vallejo Sanitation and Flood Control District

1. Pay a plan review fee prior to further review. Fee of \$310 will be due for review of improvement plans.
2. Submit calculations signed by a Registered Civil Engineer to support design of sanitary sewer and storm drain.
3. The following permits are identified as being required from other agencies prior to construction: Building Permit from City of Vallejo Building Division. Additional permits may be required. It is the responsibility of the applicant to determine any and all permits that are required.
4. Resubmit plans and/or easement documents for additional review.
5. After plans are approved, submit a Connection Permit Application (SSI) Form for connection fee calculation (\$20 submittal fee). Non-residential developments shall also submit a Pretreatment Questionnaire for review by VSFCDD Pollution Control Department. (See note below)
6. All individual parcels shall sewer directly to the public system.
7. Non-District facilities serving more than one lot will not be allowed.
8. If the lots are to be separately owned (in fee title), there will need to be a VSFCDD sewer main constructed on the property to satisfy the above requirements. The existing VSFCDD system will have to be extended to the property by the developer.
9. The project, as submitted, was incomplete. All proposed and existing storm drain and sanitary sewer facilities to serve the project need to be shown. Provide utility plan showing existing and proposed sanitary sewer and storm drain facilities, mains, laterals, connections, etc.
10. Comply with the current VSFCDD regulations regarding improvement of existing offsite storm drains and/or sanitary sewer facilities.
11. VSFCDD sanitary sewer or storm drains shall not be installed in the rear of any of the lots.
12. Reciprocal Easement shall include provisions for drainage across lot lines. If COV does not allow overland release as shown, then an underground storm drain system may be required. Since lots are owned in fee title, underground system would have to be built to the VSFCDD standards for ownership and maintenance.

A privately owned underground storm drain system will be considered only if there is a homeowners association (HOA) for the community.

13. Reciprocal Easement shall include provisions for VSFCO access if a public sewer main is to be constructed on the property.
14. Applicant shall pay all fees (plan review fees, connection fees, etc.) required by VSFCO for the subject project.
15. Improvement plans shall comply with the VSFCO Engineering Design Standards and Policies, dated May 2002 or later, regarding design and construction of grading, storm drains (SD), and sanitary sewer (SS) facilities. Improvement plans shall indicate that proposed improvements are to be constructed in accordance with Standard plans and Specifications included in the VSFCO Master Bid Document, dated January 2005, or later edition.
16. Grading and improvement plans shall include storm water pollution prevention plans for use during site development and building construction to mitigate impacts of this development. This plans shall include calculations, measures related to debris, refueling areas, disposal of excess materials, site cleanup, hazardous substance containment, street cleaning, catch basin cleaning, and other similar measures (see current VSFCO Storm Water Management Plan Section 4.4.5).
17. Pretreatment of storm drainage water runoff is required. Storm drainage runoff shall be conveyed over landscaped areas or otherwise treated using structures before discharging into the public system. This is to improve the stormwater quality leaving the site. As much as practicable, developer shall incorporate measures described in "Start at the Source", a residential site planning and design guidance manual for storm water quality protection (written by BASMA) as a means of mitigating project impacts, and reducing impacts due to the proposed increase in impervious surfaces.
18. The development shall be planned so that all VSFCO SD and SS facilities shall be accessible by an AC pave path, 15-foot minimum wide from the public street to each maintenance structure (manholes, catch basins, etc.), such that VSFCO maintenance vehicles can drive to and park over facilities. District vehicles must be able to drive forward in and forward out. Refer to the requirements in VSFCO standard drawing No. 25.

E. Fire Prevention

1. Submit a numbered list to the Fire Prevention Division stating how each condition of project approval will be satisfied.
2. The project shall conform to all applicable requirements of Title 19 - Public Safety, California Code of Regulations, Uniform Fire Code (as adopted), and Vallejo Fire Prevention Standards.

3. Prior to building permit submittal, the applicant shall install an approved and tested water supply system capable of supplying the required fire flow as determined by the Fire Chief. Water supply systems for staged construction shall provide required fire flows at all stages.
4. Prior to occupancy/final building inspection, install approved numbers or addresses on all buildings in such a position as to be clearly visible and legible from the street. Residential buildings shall have numerals or letters not less than 3 inches in height and of an approved color that contrasts with the background. Commercial occupancies shall have numerals or letters not less than 6 inches in height of contrasting background and illuminated at night.
5. Prior to occupancy/final building inspection, install "No Parking/Fire Lane" signs along interior access roadways in locations where vehicle parking would encroach on a 20-foot clear width of roadway.
6. Prior to occupancy/final building inspection, all applicable fees shall be paid and a final Fire Prevention inspection shall be conducted. All meetings and inspections require a minimum 24-hour advance request.
7. Development sites shall be maintained weed free during construction.
8. Additional fire hydrants may be required in the street right-of-way. Submit a complete set of plans for review and approval. All fire hydrants are to have "blue dot" highway reflectors installed on the adjacent street to the driveway to clearly identify the fire hydrant locations.
9. If security gates are desired at the entrance to the project, they shall be provided with a Fire Department approved entry system.
10. In Residential (Group R) Occupancies, single station smoke detectors shall be installed prior to occupancy/final building inspection in each sleeping area and at a point centrally located in the corridor or area giving access to each separate sleeping area. When the dwelling unit is of more than one story (including basements), there shall be a smoke detector on each story. When a story is split into more than one level, the smoke detector shall be installed on the upper level.
11. Every sleeping room below the fourth story shall have at least one exterior opening for rescue purposes. The opening shall be a minimum of 5.7 feet square and 20 inches wide by 24 inches high.

GENERAL CONDITIONS:

1. All contractors and subcontractors working on the project shall obtain current City of Vallejo business licenses.

2. The conditions herein contained shall run with the property and shall be binding on the applicant and all heirs, executors, administrators, and successors in interest to the real property that is the subject of this approval.
3. The applicant shall defend, indemnify, and hold harmless the City of Vallejo and its agents, officers, and employees from any claim, action, or proceeding against the City and its agents, officers, and employees to attack, set aside, void, or annul this approval by the City. The City may elect, at its discretion, to participate in the defense of any action.



STAFF REPORT CITY OF VALLEJO PLANNING COMMISSION

Date of Hearing: February 6, 2006

Agenda Item: K 2

Application Number: Use Permit #05-0024, as governed by Chapter 16.82 "Conditional Use Permit Procedure" of the Vallejo Municipal Code and Tentative Map #05-0005 as governed by Chapter 15.08 "Tentative Maps" of the Vallejo Municipal Code.

Recommendation: **Approve** Use Permit #05-0024 and Tentative Map #05-0005 subject to the findings and conditions contained in this report.

Location: Broadway between Garibaldi Drive and Sala Street
APN: 000052-143-200

Applicant: Hunter Strauss
P.O. Box 1716
Ross, CA 94957

Property Owner: Anthony Richards
600 Marin Street #4
Vallejo, CA 94590

Project Description: The project includes a tentative map to subdivide an existing 1.44 acre parcel into 14 parcels with two remainder parcels. The project also includes a use permit to develop 14 industrial live/work units. The proposed units would be 1,620 square feet and would be developed as three story buildings with 494 square foot combined garages and work space on the ground floors and living space above.

Environmental Review: The proposed project qualifies for a Class 32 categorical exemption from the requirements of the California Environmental Quality Act (CEQA) per Section 15301 of the California Code of Regulations.

General Plan: Employment

Zoning: Intensive Use

Existing Land Use: The property is currently vacant with the exception of a single-family house on the corner of Broadway and Sala Street.

Surrounding Land Uses: To the east of the property are vacant parcels and two single-story duplexes. South of the property are single family residential uses. To the north is an auto stereo shop. Across Broadway to the west is the Raley's shopping center.

Public Notice: A public notice regarding the public hearing was sent to property owners within 500 feet of the property and published in the Times Herald on December 27, 2005.

1. PROJECT DESCRIPTION

The project includes a tentative map to subdivide an existing 1.44 acre parcel into 14 parcels with two remainder parcels (one of the remainder parcels would contain the existing house at the corner of Broadway and Sala Street, the other remainder would front on El Campo Court). The 14 parcels would have a private accessway from Broadway and Garibaldi Drive. The project also includes a use permit to develop 14 industrial live/work units. The proposed units would be 1,620 square feet and would be developed as three story buildings with 494 square foot combined garages and work space on the ground floors and living space above. Five sets of duets would face Broadway and a townhouse-style four-plex would face the interior of the property, perpendicular to Broadway.

2. ENVIRONMENTAL REVIEW

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and was determined to be exempt per Section 15332, Title 14 of the California Code of Regulations because:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;
- b) The proposed development would occur within city limits on a project site of less than five acres substantially surrounded by urban uses;
- c) The project site has no value as habitat for endangered, rare, or threatened species;
- d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
- e) The site can be adequately served by all required utilities and public services.

3. CONSISTENCY WITH THE GENERAL PLAN

The General Plan designation for this property is Employment. As an industrial live/work project, the proposed project is consistent with this designation. Industrial Development Goal 2 is "to have a higher percentage of residents working in the Vallejo area." The proposed project provides 14 live/work units, providing local employment for each residential unit.

Industrial Development Goal 4 is "to maximize the potential of industrially zoned lands for the fostering of new and innovative industrial development." The policy associated with this goal is to "use the Planned Development approach in those areas where industrial uses will be compatible with accessory residential and/or commercial uses." Although this project is not a Planned Development, the general approach is similar. The use of the property as industrial live/work provides a use that is compatible with the residential uses directly adjacent, the commercial shopping center across Broadway, and the more industrial use across Garibaldi Drive.

4. CONFORMANCE WITH ZONING REGULATIONS

ZONING. The zoning designation for this property is Intensive Use. Industrial Live/Work uses are allowed in this zoning district with approval of a major use permit. The Zoning Ordinance requires that the work component of such uses be conducted by a person or persons making the unit their principal residence and that the work uses be limited to those allowed in the Intensive Use District. As some of these uses may not be compatible with residential uses or with the project development, a list of allowed and prohibited uses has been provided as Attachment 3. All uses not on this list that are allowed in the Intensive Use District would require approval of a minor use permit.

PARKING. The parking requirement for live/work use types is not defined in the Zoning Ordinance but shall be determined by the Development Services Director. Where a single lot contains more than one use, the sum of the requirements for each use are usually calculated separately; however, the Development Services Director may reduce the overall parking requirement if several different uses will share a common parking facility and the peak parking demand time for such uses will vary. For live/work uses, the parking demand would normally be lower than the combined parking requirement for each use because the employees would also be the residents. In addition, industrial use types generally have a low parking demand. In this instance, the Development Services Director determined that parking should be supplied at a rate of two covered parking spaces per unit (contained within the buildings) and one additional space per unit. The project has been designed to meet this standard and has one additional uncovered parking space.

LANDSCAPING. In the Intensive Use District, boundary landscaping is required for a minimum depth of four feet along all property lines abutting streets except for the area required for street openings. In addition, not less than two percent of any parking area shall be landscaped. All portions of the building site, exclusive of structures, parking areas, recreational uses, driveways and walkways, shall be landscaped. At least one street tree is required for each fifty feet of street frontage or fraction thereof.

Landscape plans were not included with this project submittal; however, the site plans indicate landscape areas and setbacks that exceed the area and setback requirements. Landscape plans shall be required as a condition of approval for this project.

5. PUBLIC COMMENTS

A public notice regarding the public hearing was originally sent to property owners within 500 feet of the property and published in the Vallejo Times-Herald on December 27, 2005. Staff received one phone call from a property owner in the vicinity regarding the project. The caller asked for clarification about the project but had no specific comments. One individual stopped by the Planning Division office and two other callers inquired about the project and were concerned about view blockage from residences on El Campo Court. As all the residences on El Campo Court are single story, any development of this property would block these views.

6. DEPARTMENT REVIEW AND COMMENTS

Plans for this project were reviewed by the Building Division, the Traffic Engineer, the Department of Public Works, Vallejo Sanitation and Flood Control District, Fire Prevention, the Water Division, Vallejo Garbage Service, Crime Prevention, Community Development, and the Permit Coordinator. Comments from these departments and agencies have been incorporated into the project requirements and this staff analysis.

7. REFERENCES

State of California, Office of Planning and Research; CEQA: California Environmental Quality Act (Statutes and Guidelines 1999, as amended).

City of Vallejo General Plan

City of Vallejo Municipal Code:

Chapter 15.08 – Tentative Maps

Chapter 16.34 – Intensive Use District

Chapter 16.62 – Off-Street Parking and Loading Regulations

Chapter 16.72 – Screening and Landscaping Regulations

Chapter 16.82 – Conditional Use Permit Procedure

8. STAFF ANALYSIS

The project would provide fourteen new industrial live/work units in an Intensive Use zoning district. The project is designed with the majority of the units fronting on Broadway and the parking in the rear. This provides a more attractive appearance along the street and separation between the project and the adjoining residential properties in the rear.

Height. Four of the units would face the interior of the property. This fourplex would be approximately 7½ feet from the rear property line. The adjacent property in the rear is developed with a single story duplex. Although the project is three stories high, the maximum height is 35 feet, which is the maximum height for the adjacent Low Density Residential district. To ensure the privacy of the adjacent residential development, windows on unit 4 that face east shall either be opaque glass or shall be located above eye level as clerestory windows. In addition, a fence shall be constructed between the subject property and adjacent residentially zoned properties.

Uses. Although the project is intended to be a live/work facility, the units could easily be used as strictly residential units. As residential uses are allowed only as live/work units in the Intensive Use district, as a condition of project approval, a restriction shall be placed on the properties as part of the CC and Rs that prohibits the use of the property as residential only with no work component.

Work uses would be restricted to those allowed in the Intensive Use zoning district. As noted previously, the uses allowed in the District would further be limited to those that

would be allowed for this development and those that are prohibited. Any uses that are allowed in the Intensive Use District that are not on this list would require approval of a minor use permit.

Outdoor Storage. In the Intensive Use District, outdoor use and storage is allowed only when screening and buffering can be provided. As the project design does not allow for such screening and buffering, all uses shall be conducted entirely within the buildings. No outdoor storage of materials, equipment, or other incidentals to the live/work occupancy shall be allowed on the site.

Parking. The parking for the project would provide two covered parking spaces per unit and an additional 15 uncovered parking spaces. The Development Services Director has determined that this would be an adequate amount of parking provided that the uncovered parking is reserved for non-residential use. To ensure that residents do not use the parking provided for customers, signs shall be posted that reserve uncovered parking for customers during normal business hours. In addition, this restriction shall be included in the CC and Rs for the project. As a condition of project approval, an additional restriction shall be included in the CC and Rs that states that no RV, boat, or trailer storage shall be allowed onsite.

The property has a substantial street frontage; however, a portion of this frontage would be required for driveway openings and the bus turnout. Once the street frontage improvements have been completed, there would be approximately seven or eight spaces on Broadway and an additional three or four spaces on Garibaldi Street.

Neighborhood Compatibility. The project is located on a main thoroughfare in a transitional neighborhood, with commercial uses across Broadway, residential uses adjacent to the east and south, and industrial uses to the north. The proposed live/work project would provide a buffer between existing and future residential uses and the more intense uses to the north and west. The design of the project also provides a transition from the strictly residential to the commercial and industrial. Although the site design does not meet every standard for residential development, it does provide individual open space in the form of substantial third floor decks. With the restrictions imposed as conditions of project approval, the parking proposed is anticipated to be more than adequate for the potential uses of the project. The landscape buffer between Broadway and the buildings would maintain a landscape setback similar to those provide by other new development in the vicinity.

Design Issues. The proposed building design is at the conceptual level. As a condition of approval, final design details shall be submitted to the Planning Division for review and approval. These details shall include but not be limited to providing a definite visual separation between units by a building indentation, trim piece, or other method, and providing dimensional trim around the windows and doors.

Signage. It is anticipated that the residents would have signs for their businesses. Although staff discussed various options with the applicants, no sign program was included with this submittal. As a condition of approval, the applicants shall work with

staff to develop a sign program in compliance with the sign ordinance that complements the project design.

Conclusion. The project is in conformance with the General Plan and the requirements of the Zoning Ordinance. It would provide a transition in use and design between the commercial and industrial uses to the north and west and the residential uses to the east and south. The site design is compatible with other development in the vicinity and would provide an attractive style along a main thoroughfare.

9. STAFF RECOMMENDATION

Staff recommends:

That the Planning Commission **APPROVE** Use Permit #05-0024 and Tentative Map #05-0005 subject to the following:

Findings:

1. The location and operating characteristics of the proposed live/work facility are compatible with adjacent uses per Sections 4 and 8 of this report.
2. The proposed live/work facility is consistent with the goals and policies of the General Plan per Section 3 of this report.
3. The tentative map conforms to the Zoning Ordinance and Title 15 "Subdivisions" of the Vallejo Municipal Code.
4. The tentative map conforms to the Subdivision Map Act.

CONDITIONS OF APPROVAL

A. Planning Division

1. Prior to Building Permit submittal, submit revised elevations to the Planning Division for review and approval. The revised elevations shall include design details including but not limited to a definite visual separation between the units and dimensional trim around the windows and doors. The windows on the east wall of unit 4 shall be shown as either opaque glass or clerestory style.
2. Uses allowed on this property are limited to those allowed in the Intensive Use District and listed on Attachment 3 as allowed uses. Uses allowed in the District but not listed on Attachment 3 as allowed or prohibited may be allowed with the approval of a minor use permit. This condition shall be included in the CC and Rs for the property.

PROJECT REQUIREMENTS

A. Planning Division

1. Prior to building permit submittal, submit a numbered list to the Planning Division stating how each condition of project approval contained in this report will be satisfied. The list should be submitted to the project planner who will coordinate development of the project.
2. Prior to building permit issuance, submit 3 sets of landscaping plans prepared by a registered landscape architect to the Planning Division for review and approval. Landscape plans shall comply with Chapter 16.70 (VMC), and are to include the following:
 - a. All portions of the building site exclusive of structures, parking areas, driveways, and walkways shall be landscaped.
 - b. a minimum of 10 City-approved street trees to be planted at least 6 feet from any sewer line;
 - c. specification of low growth type species adjacent to doors, windows, and walkways, with no vegetation that would allow persons to hide in the landscape areas;
 - d. low-water using and drought-resistant plant materials;
 - e. screening of required backflow preventer;
 - f. all trees to be minimum of 15 gallon, double staked; at least 50% of the proposed shrubs shall be a minimum of 5 gallon;
 - g. irrigation plan indicating all components of the irrigation system including sprinklers and other outlets, valves, backflow prevention devices, controllers, piping and water usage; and
 - h. 6 inch high curbing around planters.

Prior to occupancy/final building inspection, install landscaping and irrigation per approved plans. The landscape architect shall verify in writing that the landscaping and irrigation have been installed in accordance with the approved landscaped plans with respect to size, health, number and species of plants, and the overall design concept.

3. As part of the CC and Rs required under Public Works condition 13, residential use of each unit is conditional upon the "work" component of the use. No unit shall have residential use that does not also have a commercial or industrial use. The uses allowed must be in conformance with the uses allowed by the Zoning Ordinance for the zoning district.
4. The CC and Rs shall contain a restriction that prohibits the storage of RVs, boats, and trailers onsite. In addition, onsite uncovered parking shall be reserved for customers during normal working hours.
5. All uses shall be conducted entirely within the buildings. No outdoor storage of materials, equipment, or other incidentals to the live/work occupancy shall be allowed on the site.

6. The applicants shall work with the Planning Division to design a sign program for the entire project area that complies with the sign ordinance and complements the project design. Prior to final inspection/occupancy, the applicants shall submit the sign program to the Planning Division for review and approval.

B. Building Division

1. All air conditioning units shall be located in the rear yards.
2. All party walls shall be two (2) hour rated and sound transmission control (STC) 59.

C. Department of Public Works

1. Submit site grading, drainage, improvements, utility, and landscaping and irrigation plans for review and approval. Site plan shall show all proposed and existing improvements and utility services.
2. Submit a geotechnical investigation report for this development for review.
3. Surface runoff from this development shall be intercepted onsite and piped into the public storm drain system.
4. Sheet flow from the site over driveway approach is not allowed.
5. Install frontage improvements along Broadway that include but not limited to curb, gutter, sidewalk, driveway, standard bus parking bay, bus shelter pad, bus shelter, grading, pavement widening, any storm drain required and street tree as determined by the City Engineer and Transportation Department.
6. Install standard curb, gutter, sidewalk and driveway fronting the property along Garibaldi Drive.
7. Remove and replace broken sidewalk and driveway fronting existing home on Sala Street.
8. Install left turn pocket with minimum three feet wide raised median on south bound of Broadway at the intersection of Sala Street and Broadway. Length of left turn shall be 75 feet with 90 feet transition.
9. Dedicate required right-of-way, Public Utility Easement, and bus shelter easement along Broadway fronting the property as determined by City Engineer.
10. Dedicate required right-of-way at the NE corner of Broadway and Sala Street.
11. Establish common access, parking, drainage, and utility easements for the proposed subdivision on the final map.

12. Establish Homeowners Association for this subdivision. All private improvements shall be owned and maintained by the homeowners association.
13. Prior to building permit issuance, establish a Homeowners Association for operation and maintenance of private landscaping, irrigation system, drainage, fences and appropriate signage and hardware, private street light system, and other private facilities subject to the approval of the Planning Division, Public Works Director, and the City Attorney. The Covenants, Conditions and Restrictions of all deeds issued within the subdivision shall contain provisions requiring participation in the said Homeowners Association. The Homeowners Association must accept the above private elements of subdivision improvements prior to acceptance.
14. Prior to building permit submittal, submit Covenants, Conditions and Restrictions (CC&R) for review approval to the Planning Division, Public Works Director, and the City Attorney.
15. Submit an address map for review and approval.
16. Prior to recording the final, the owner shall pay the City charges required by Solano County for providing copies of the recorded map to the City (\$160 per lot/parcel).
17. Development of Parcel "A" would require a Site Development Permit.
18. Submit final map prepared by a registered civil engineer or licensed land surveyor for review and approval.
19. Signing and striping plan shall be per City standard. Submit signing and striping plan for review and approval.
20. Parking lot and driveway access shall not slope more than 5% in any direction.
21. Install required street trees fronting the property. Street trees shall be selected from City's approved street tree list.
22. During construction, it shall be the responsibility of the contractor to provide for safe traffic control in and around the site. This may include but not be limited to signs, flashing lights, barricades, and flag persons.

Additional standard comments that may apply are:

PW1 through PW17 and PW19

D. Vallejo Sanitation and Flood Control District

1. Pay a plan review fee prior to further review. Fee of \$310 will be due for review of improvement plans.
2. Submit calculations signed by a Registered Civil Engineer to support design of sanitary sewer and storm drain.
3. The following permits are identified as being required from other agencies prior to construction: Building Permit from City of Vallejo Building Division. Additional permits may be required. It is the responsibility of the applicant to determine any and all permits that are required.
4. Resubmit plans and/or easement documents for additional review.
5. After plans are approved, submit a Connection Permit Application (SSI) Form for connection fee calculation (\$20 submittal fee). Non-residential developments shall also submit a Pretreatment Questionnaire for review by VSFCD Pollution Control Department. (See note below)
6. All individual parcels shall sewer directly to the public system.
7. Non-District facilities serving more than one lot will not be allowed.
8. If the lots are to be separately owned (in fee title), there will need to be a VSFCD sewer main constructed on the property to satisfy the above requirements. The existing VSFCD system will have to be extended to the property by the developer.
9. The project, as submitted, was incomplete. All proposed and existing storm drain and sanitary sewer facilities to serve the project need to be shown. Provide utility plan showing existing and proposed sanitary sewer and storm drain facilities, mains, laterals, connections, etc.
10. Comply with the current VSFCD regulations regarding improvement of existing offsite storm drains and/or sanitary sewer facilities.
11. VSFCD sanitary sewer or storm drains shall not be installed in the rear of any of the lots.
12. Reciprocal Easement shall include provisions for drainage across lot lines. If COV does not allow overland release as shown, then an underground storm drain system may be required. Since lots are owned in fee title, underground system would have to be built to the VSFCD standards for ownership and maintenance. A privately owned underground storm drain system will be considered only if there is a homeowners association (HOA) for the community.
13. Reciprocal Easement shall include provisions for VSFCD access if a public sewer main is to be constructed on the property.

14. Applicant shall pay all fees (plan review fees, connection fees, etc.) required by VSFCDD for the subject project.
15. Improvement plans shall comply with the VSFCDD Engineering Design Standards and Policies, dated May 2002 or later, regarding design and construction of grading, storm drains (SD), and sanitary sewer (SS) facilities. Improvement plans shall indicate that proposed improvements are to be constructed in accordance with Standard plans and Specifications included in the VSFCDD Master Bid Document, dated January 2005, or later edition.
16. Grading and improvement plans shall include storm water pollution prevention plans for use during site development and building construction to mitigate impacts of this development. This plans shall include calculations, measures related to debris, refueling areas, disposal of excess materials, site cleanup, hazardous substance containment, street cleaning, catch basin cleaning, and other similar measures (see current VSFCDD Storm Water Management Plan Section 4.4.5).
17. Pretreatment of storm drainage water runoff is required. Storm drainage runoff shall be conveyed over landscaped areas or otherwise treated using structures before discharging into the public system. This is to improve the stormwater quality leaving the site. As much as practicable, developer shall incorporate measures described in "Start at the Source", a residential site planning and design guidance manual for storm water quality protection (written by BASMA) as a means of mitigating project impacts, and reducing impacts due to the proposed increase in impervious surfaces.
18. The development shall be planned so that all VSFCDD SD and SS facilities shall be accessible by an AC pave path, 15-foot minimum wide from the public street to each maintenance structure (manholes, catch basins, etc.), such that VSFCDD maintenance vehicles can drive to and park over facilities. District vehicles must be able to drive forward in and forward out. Refer to the requirements in VSFCDD standard drawing No. 25.

E. Fire Prevention

1. Submit a numbered list to the Fire Prevention Division stating how each condition of project approval will be satisfied.
2. The project shall conform to all applicable requirements of Title 19 - Public Safety, California Code of Regulations, Uniform Fire Code (as adopted), and Vallejo Fire Prevention Standards.
3. Prior to building permit submittal, the applicant shall install an approved and tested water supply system capable of supplying the required fire flow as determined by the Fire Chief. Water supply systems for staged construction shall provide required fire flows at all stages.

4. Prior to occupancy/final building inspection, install approved numbers or addresses on all buildings in such a position as to be clearly visible and legible from the street. Residential buildings shall have numerals or letters not less than 3 inches in height and of an approved color that contrasts with the background. Commercial occupancies shall have numerals or letters not less than 6 inches in height of contrasting background and illuminated at night.
5. Prior to occupancy/final building inspection, install "No Parking/Fire Lane" signs along interior access roadways in locations where vehicle parking would encroach on a 20-foot clear width of roadway.
6. Prior to occupancy/final building inspection, all applicable fees shall be paid and a final Fire Prevention inspection shall be conducted. All meetings and inspections require a minimum 24-hour advance request.
7. Development sites shall be maintained weed free during construction.
8. Additional fire hydrants may be required in the street right-of-way. Submit a complete set of plans for review and approval. All fire hydrants are to have "blue dot" highway reflectors installed on the adjacent street to the driveway to clearly identify the fire hydrant locations.
9. If security gates are desired at the entrance to the project, they shall be provided with a Fire Department approved entry system.
10. In Residential (Group R) Occupancies, single station smoke detectors shall be installed prior to occupancy/final building inspection in each sleeping area and at a point centrally located in the corridor or area giving access to each separate sleeping area. When the dwelling unit is of more than one story (including basements), there shall be a smoke detector on each story. When a story is split into more than one level, the smoke detector shall be installed on the upper level.
11. Every sleeping room below the fourth story shall have at least one exterior opening for rescue purposes. The opening shall be a minimum of 5.7 feet square and 20 inches wide by 24 inches high.

GENERAL CONDITIONS:

1. All contractors and subcontractors working on the project shall obtain current City of Vallejo business licenses.
2. The conditions herein contained shall run with the property and shall be binding on the applicant and all heirs, executors, administrators, and successors in interest to the real property that is the subject of this approval.
3. The applicant shall defend, indemnify, and hold harmless the City of Vallejo and its agents, officers, and employees from any claim, action, or proceeding against

the City and its agents, officers, and employees to attack, set aside, void, or annul this approval by the City. The City may elect, at its discretion, to participate in the defense of any action.

10. EXPIRATION

This use permit shall expire automatically 24 months after its approval unless building permits are secured and construction has begun or unless this permit is extended by the City prior to the expiration date.

The applicant or any party adversely affected by the decision of the Planning Commission may, within ten days after the rendition of the decision of the Planning Commission, appeal in writing to the City Council by filing a written appeal with the City Clerk. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by the City Clerk or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or City holiday, then the deadline shall be extended until the next regular business day.


Notice of the appeal, including the date and time of the City Council's consideration of the appeal, shall be sent by the City Clerk to all property owners within two hundred or five hundred feet of the project boundary, whichever was the original notification boundary.

The Council may affirm, reverse or modify any decision of the Planning Commission which is appealed. The Council may summarily reject any appeal upon determination that the appellant is not adversely affected by a decision under appeal.

ATTACHMENTS

- Attachment 1 – Conflict of Interest map
- Attachment 2 – Site plans and elevations
- Attachment 3 – List of Allowed and Prohibited Uses

Prepared by:


Katherine Donovan, Associate Planner

Reviewed by:


Brian Dolan, Planning Manager

Conflict of Interest Map

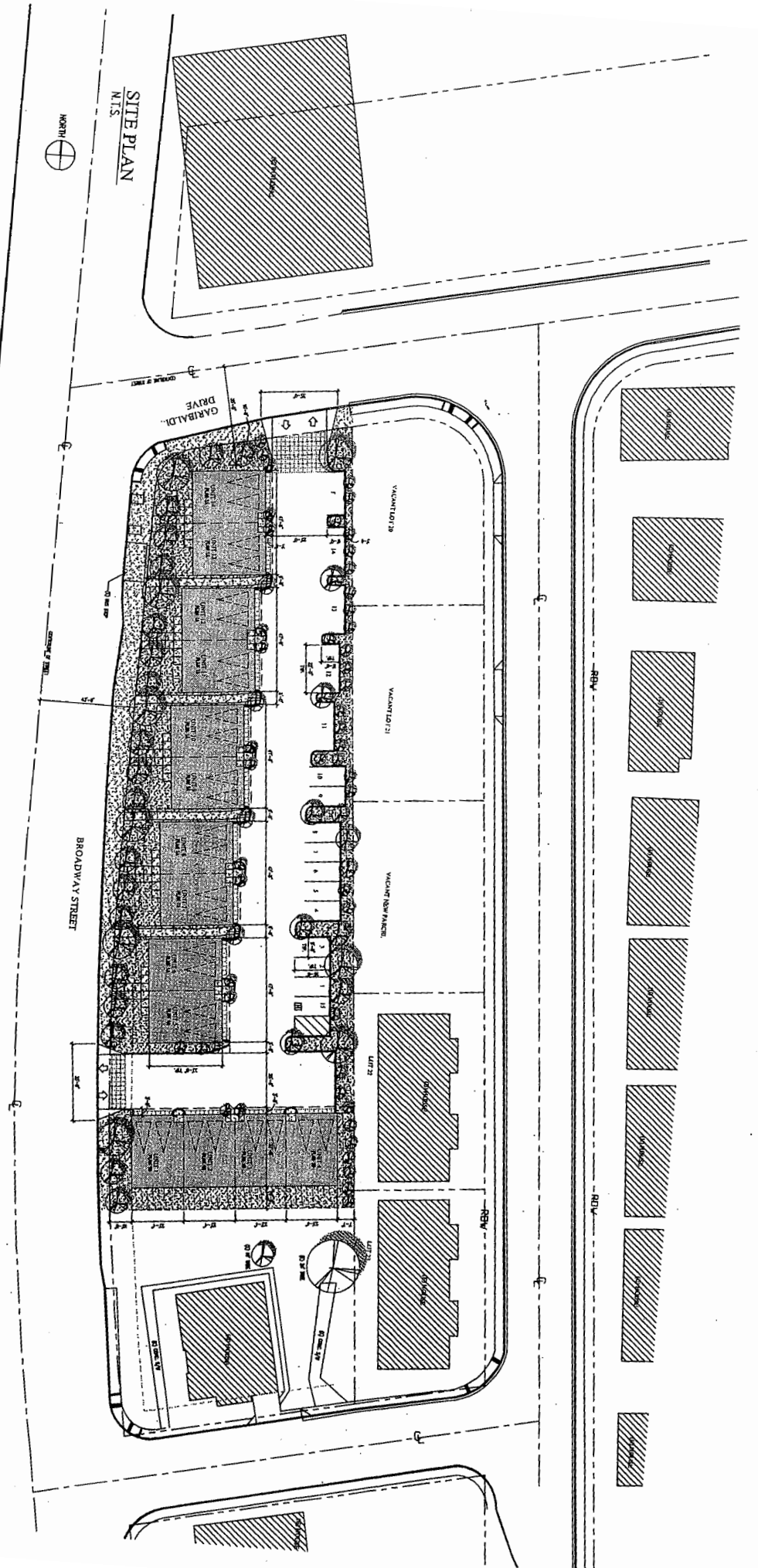
Use Permit #05-0024 and Tentative Map #05-0005
Broadway & Garibaldi Drive - (APN# 0052-143-200)

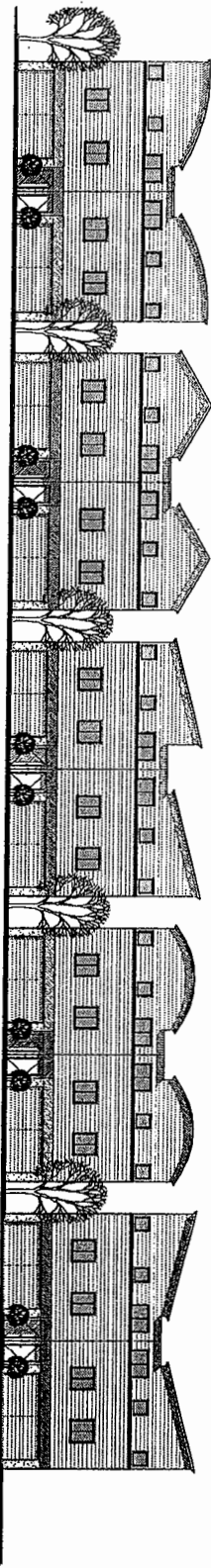


SITE PLAN
N.T.S.

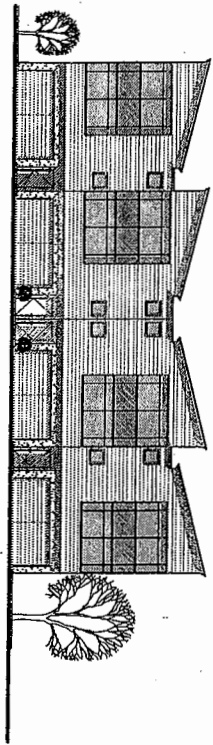


ARCHITECT:
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Architecture Planning
901 Battery Street
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CONTACT: RICHARD STRAUSS
DATE SENT: 01.11.06

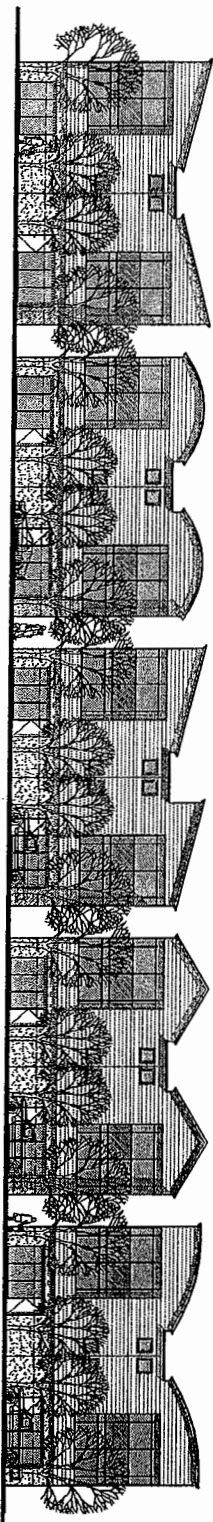




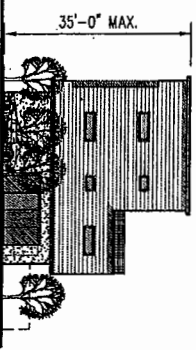
REAR ELEVATION FROM DRIVEWAY
N.T.S.



CONCEPTUAL ELEVATION AT INTERIOR DRIVE
N.T.S.



CONCEPTUAL ELEVATION AT BROADWAY
N.T.S.



35'-0" MAX.

ARCHITECT:
Strauss Architects
Architecture Planning Interior Design
4000 Wilshire Blvd.
San Francisco, CA 94115
California 94111
Tel 415 362 3144
Fax 415 362 1816
CONTACT: RICHARD STRAUSS
DATE SENT: 01.06.06

**Allowed and Prohibited Uses
For
Live/Work on Broadway**

Allowed Uses

1. Administrative and professional services
2. Business equipment sales and services
3. Business support services

Prohibited Uses

1. Ambulance services
2. Automotive and equipment: cleaning
3. Automotive and equipment: fleet storage
4. Automotive and equipment: parking
5. Automotive and equipment: storage, non-operating vehicles
6. Essential services
7. Funeral and internment services
8. Gasoline sales
9. General Industry
10. Heavy industrial
11. Laundry services
12. Major impact services and utilities
13. Parking services
14. Postal services
15. Scrap operation: automotive salvage yards, junkyards, paper salvage yards, processing facilities, heavy
16. Scrap operation: collection facility; large and processing facility; light
17. Wholesaling, storage, and distribution: heavy

Use allowed in the Intensive Use Zoning District that are not included on this list require the approval of a minor use permit.

2. Tentative Map 05-0005 and Use Permit 05-0024 are applications for 14 live/work units on Broadway at Garibaldi. Proposed CEQA Action: Exempt.

Staff recommends approval based on the findings and conditions in the staff report.

Katherine Donovan: This is a tentative map and use permit to develop 14 live/work units and two remainder parcels on Broadway between Garibaldi Drive and Sala Street. The property is zoned IU, Intensive Use, which is the City's basic industrial zoning district, and has been vacant for many years. The project would provide five duet-type buildings and one four-plex. Duets would front on Broadway; the four-plex would be parallel to the interior property line, perpendicular to Broadway, fronting the interior of the property.

The units would be three stories high, with a two-car garage and work space on the ground floor and living space on the upper floors. Each unit would have a large deck in the rear of the third story that would take up approximately half of the floor area of the third story.

Allowed uses would be limited to those allowed in the IU district; however, as staff believes that there are a number of uses allowed the district that would be incompatible with live/work uses in general and the project design in particular, a list of allowed and prohibited uses has been compiled. Uses allowed in the district but not included on the list would require a minor use permit.

Staff received several telephone calls and one visit from neighboring property owners who were concerned that the development would block their views. All of the housing in the area, with the exception of the house on the corner, are single-story. Any development on this land would block views. It is a very flat area and those houses are ranch style and are low to the ground. Any development would block views.

The project would provide a transition and buffer between residential uses to the east and south and more industrial and commercial uses to the north and west. The buildings are pulled forward on the lot, facing Broadway, with the parking in the rear. The architecture also forms a transition from the more industrial development along Broadway and the residential behind and to the south. Staff recommends approval of this project.

Commissioner Legalos: The view that would be blocked; isn't that a view of the shopping center and the Jiffy Lube?

Katherine Donovan: Yes. However, if you stand there and look out, you do get a view of the hills beyond. You are looking out at a flat valley that has that commercial development in it.

Commissioner Legalos: Does that seem significant to you?

Katherine Donovan: No.

Commissioner Legalos: On the list of prohibited uses, what is meant by essential services?

Katherine Donovan: That includes things like fire stations, ambulances, and those types of emergency services. We do not feel that that is an appropriate live/work use.

Commissioner Legalos: What is a two-hour party wall?

Katherine Donovan: It is a Building Code issue that means that if there is a fire, it would take two hours to burn through the wall. Commissioner Morris is nodding his head so I guess that is right.

Commissioner Legalos: I did not see anything about traffic control for the exit onto Broadway. That is a busy street and traffic often moves pretty fast there. Is there a stop sign planned or some kind of control?

Katherine Donovan: There is no control planned. There is a stop sign at the driveway itself. The applicants have been working with Public Works on this and Public Works has some conditions related to the street conditions, something to do with the center divider at that point. I can't remember exactly what the condition requires off the top of my head, but you would only be able to make a right turn at that point. My own feeling is that the majority of people leaving that site would use Garibaldi. It is easier to enter Broadway from that controlled intersection.

Commissioner Peterman: I think the idea of live/work is phenomenal. In the report, it says that in the CC&Rs, solely residential would be prohibited. I know that sometimes CC&Rs are not adhered to. Is there some trigger in place to have some control over that to make sure it did not happen?

Katherine Donovan: Because it would be an issue of what is allowed by zoning, the City would have some control over that. If we were notified or found out that someplace was being used strictly for residential purposes, it would be a violation of the Zoning Ordinance and we could go after them.

Commissioner McConnell: The report says that there is 490 square feet for garages and work spaces. How much will be for parking and how much for work space?

Katherine Donovan: A typical interior garage space is 10' x 20', so most of it would be available for parking. The idea was that these live/work units may actually end up using that parking as part of their work. We have restrictions on who uses the additional parking provided. These units are large enough that we may have someone who is using the workspace and someone commuting, or a small family might live in here. There are various options. On something like this, we like to be a little flexible. We do not want to have things too strictly controlled. There are the two spaces provided; however, they may end up using one garage space for the person who is doing the work component and their partner might commute and use the uncovered parking for a parking space during the non-work hours.

Commissioner McConnell: It actually struck me that it might be small for a work spot.

Katherine Donovan: Right; it is definitely small.

Commissioner McConnell: There won't be any restrictions against using the second or third level for work space will there?

Katherine Donovan: No.

Commissioner McConnell: On the allowed and prohibited uses, allowed uses are mostly business and business support types. On the prohibited list, postal services are listed. That strikes me as being a support service as well. Why have this restriction against postal services?

Katherine Donovan: Postal services is a separate use type and we did not think, given the size of and nature of the project, that postal services, with people coming and going constantly, producing lots of traffic, was an appropriate use for this area considering that 14 units are sharing a very limited amount of parking.

Commissioner McConnell: On the fences that are between the residences that are there now; I believe we have an interior fence restriction of six feet.

Katherine Donovan: IU allows eight foot fences.

Commissioner McConnell: You stated that the site design does not meet every standard for residential development. What specifically did you have in mind when you made that statement?

Katherine Donovan: The setbacks between the buildings, for one. There is only five feet between these duets. That is not our normal setback. This is not zoned residential, so we did not look at that. The open space requirements; they do have those large decks. They are not quite the 300 foot open space normally required for a residential project. They are quite close.

Commissioner McConnell: On the conditions of approval, I do not see an Energy Star requirement for all energy consuming devices on the project. I would like to add that as a condition of approval. I think it should be a requirement in any housing development on any project we see. I will add this to the motion at the proper time.

Chairperson Turley: Could half of this project be residential and half be live/work?

Katherine Donovan: The Zoning Ordinance does not allow strictly residential uses in an IU zoning district. Live/Work uses are the only residential uses allowed.

Chairperson Turley: On page 5, paragraph 4 of the staff report, you talk about not meeting every standard for residential development.

Katherine Donovan: The open space requirements are that they have 300 square feet per unit above and beyond the required setbacks. The units that are perpendicular to Broadway and back onto the single-family homes actually have some yard space in addition to the decks. The units that face Broadway do not have any yard space that is not part of the setback. The only open space they have is the deck. The decks are between 250 and 300 square feet. They are not quite 300 square feet. They do not meet that requirement.

Chairperson Turley: On page four of the staff report, last paragraph, it says, "although the project is intended to be a live/work facility, the units could easily be used as strictly residential units."

Katherine Donovan: If you continue it says, "Residential uses are allowed only as live/work units in the IU district. As a condition of project approval, a restriction shall be placed on the properties as part of the CC&Rs that prohibits the use of the property as residential only with no work component." We do this in the CC&Rs so that any buyer of the properties is informed that that is the case. People frequently buy properties and say that they did not know about something. CC&Rs are something that everyone should know to read. It is not buried in the fine print, it is right there for you to see.

Chairperson Turley opened the Public Hearing.

Scott Hunter: We are in agreement with the staff report and the conditions attached thereto. Unless there are questions, we do not have anything to add.

Willie Mae Anderson, 118 Garibaldi, Vallejo: Someone was going to develop that property some years ago. They told that developer, at that time, that they could not build anything over 80 feet. Now we are going to have apartments with workshops. We will be moving out of there. It will become a junkyard. I do not know why you want to build something three stories high there. When we try to get something out there, we cannot get it. My next door neighbor tried to get a permit to build a car port and was told it blocked the neighbor's view. Now all of our views are going to be blocked. What kinds of workshops are they building?

Brian Dolan: I believe that the project is well within the height limit. There are a variety of industrial uses that could be allowed there. They are too numerous to mention, but they are listed in the staff report. We have tried to select the most appropriate uses for that neighborhood, understanding that this particular property would act as a buffer between a pretty busy street and a major shopping center and the residential uses behind it. We selected those uses that did not necessarily generate a lot of activity so that it would be more compatible with the residential uses adjacent.

Katherine Donovan: The maximum height of these buildings is 35 feet. That is allowed in the residential district behind the project. The maximum height in the IU district, itself, is actually 75 feet.

Etiene Mark, 132 El Campo Ct, Vallejo: Right where these buildings are supposed to be, how are they are going to put that 14 buildings in this space? Are they going to be duplexes or something? That is pretty high. Then, when they put up an eight foot fence, that will be right in my face. I will not be able to see anything. I am wondering about that.

Katherine Donovan: These houses are actually designed like townhomes. They are two together but they are tall. They are not spread out like the duplexes on El Campo are spread out. We have not seen the fence plans for the project so I do not know that they are planning to put in an eight foot fence, but that would be the maximum height they would be allowed. They may only do a six foot fence. I do not know.

Etiene Mark: Would they be joining houses?

Katherine Donovan showed Etiene the plans for the project.

Etiene Mark: We do not have any drains up there. When it rains, the water floods because we don't have any drains.

Katherine Donovan: That would be the responsibility of the developer to install proper drainage for the project.

Bessie Chambers, 107 El Campo Ct, Vallejo: I have been there for 43 years. Before there is any building in the neighborhood, I am requesting that the City Council come out and take a look at El Campo Ct. We are being billed periodically for drainage. There is no drainage in the entire area. I would also like for the Commission to send someone out to take a look and do something about it. I am requesting that you do that.

Chairperson Turley: Ms. Donovan, do you know anything about the drainage problem?

Katherine Donovan: I do not know. VSFCD takes care of the storm water and sanitary sewer for the City. They are a separate entity; not directly part of the City government. I did talk to a couple of people on the phone about those drain issues and I suggested that they contact VSFCD to see if there were plans for improvements. I know that the area was developed in the 1950s. I am not sure when that area was annexed into the City. It is possible that was developed before it was annexed to the City. I just do not know.

Chairperson Turley: If she has lived there 43 years, she might have a point that is worth investigating. Would you be able to contact VSFCD and ask them to check it out?

Katherine Donovan: Sure. It is also possible that, due to the new drainage on this project, the situation may be helped for the neighbors behind. I will call a contact at VSFCD and find out what is going on.

Chairperson Turley: We will look into it, Ms. Chambers.

Willie Harris, 124 Garibaldi, Vallejo: *The speaker had already left before her turn to speak.*

Chairperson Turley closed the Public Hearing.

Commissioner McConnell: On the Conflict of Interest map, there is an indication that next to the project there is a 500 foot radius with empty lots.

Katherine Donovan: Those large parcels are mostly developed. There may be one not developed. On El Campo, there are three that are not developed. I believe there is a project approved for the two on the corner. They will be single-family houses.

Commissioner Legalos: I move that we approve Use Permit 05-0024 with the findings and conditions in the staff report.

AYES: McConnell, Engelman, Salvadori, Legalos, Turley, Peterman, Morris.

NOS: None.

ABSENT: None.

Motion carries.

Commissioner Legalos: I move that we approve Tentative Map 05-0005 with the findings and conditions in the staff report.

Commissioner McConnell: I would like to add some conditions of approval and I hope this is the appropriate time. I would like to restrict the hours of operation to Monday through Saturday from 7:00 am to 5:00 pm and the decibels not exceed a certain level. If anyone has any better ideas, I am open to them.

Commissioner Salvadori: I like where Commissioner McConnell is going. It sounds like the intent of the workspace is indoors here. I would like to add the condition that the working activity take place indoors and not outdoors.

Commissioner McConnell: That is agreeable.

Brian Dolan: I have several observations about those suggestions. One, these are probably more appropriately attached to the Use Permit. However, the City Attorney has suggested a creative way to include it in the Tentative Map. If you could require that they be included in the CC&Rs, then the same thing is accomplished.

Commissioner McConnell: I think that is a good idea. The HOA should have a contact person so that the neighbors can get a hold of someone in the fourteen units.

Brian Dolan: This is intended to be a live/work use and some of the uses we are encouraging, because we don't want them to be very highly industrial, I think we are headed towards a low intensity industrial, and I think that some of the uses that may find the spaces attractive might be open on the weekend. I think you should take careful consideration to not allowing them to be open on Sunday. I also believe that if you are talking about the noise impacts to the existing residents on the other side of El Campo, once this project is completed, they are probably going to have a better noise environment because they will have a wall of buildings protecting them, essentially, from a busy street and the shopping center across.

John Nagel: One of the things I did suggest was including it in the CC&Rs. What may be a cleaner way of doing it, since it is the same meeting, would be to have a motion to reconsider the motion on the Use Permit so that what we do is essentially reconsider it with the condition, whether they are Monday through Saturday or Sundays. That is to be debated by the Commission. Then we would have that part of the Use Permit. Then when we move on to the approval of the Tentative Map, it would not need to be in the CC&Rs. You could add it to the CC&Rs, but it should also be part of the Use Permit. If it is violated within the Use Permit, it can be revoked. That is a pretty big hammer to have on people who have purchased homes for live/work purposes. I think it would just take a little bit more time. Since it was unanimous, Commissioner McConnell can make the motion to reconsider. What I would suggest doing, since the motion is on the floor from Commission Legalos on the Tentative Map, that we go ahead and vote on that, making it a condition of the CC&Rs. Immediately following that, Commissioner McConnell could make his motion to reconsider. We vote on that, and then we have a second vote, which would be on the Use Permit with the additional language.

Commissioner Salvadori: Often in industrial areas, live/work space is inhabited by artistic types. If I look at the allowed uses, I do not readily see that in there. That is a little disturbing to me. If they were allowed, I do see the potential need for expanded hours. It's not likely to be a busy business location, but it just might be some art classes or purchasing, that might be a Saturday or Sunday activity.

Katherine Donovan: I wanted to answer the question about the artistic uses. Those fall into what we call the "custom manufacturing" classification. If you look at the allowed and prohibited uses, it is not listed, which means that it requires a minor use permit. The reason we do that is because there are a wide variety of uses that fall under the "custom manufacturing" use type. Whereas we may want to allow a ceramic studio or something of that nature, we may not want custom car building or some other thing that would fall into "custom manufacturing". It gives us a little bit of leeway to review actual proposals.

Scott Hunter: I would like to support what Mr. Dolan said about currently, the residents in this area are subjected to heavy traffic on Broadway at all hours of the day and night. All of the stores in the shopping center, which would be directly across the street from these live/work units, are able to do business seven days a week. Not only are we providing a buffer for noise coming from Broadway with these buildings, we also, by virtue of the zoning area, should have the right to do business

the same amount as do the commercial entities across the street. In addition to that, all of our buildings are pushed forward on the lot, along Broadway, with their business portion addressing the street. I would ask you not to limit their working hours. It is the sort of thing that the community will work out themselves. It is small. There are only 14 units. I can't help but believe that there will be good communication among the owners.

Commissioner Legalos: In principle, I agree with Commissioner McConnell's concerns; however, perhaps limiting the noise would deal with the potential issues rather than limiting the hours.

Commissioner McConnell: I am in agreement with the general principles that are being advocated here. I think all of our concern is how we accommodate what would be very close living arrangements. Between this live/work project and the houses that are already there, there are going to be two single-family houses right in back of them. How do we prevent the complaints about the bright lights, the noise, the loud parties? If it is an art studio or any kind of business that produces noise, maybe we should require double-paned windows or something. I can understand the argument about being overly restrictive on hours as well. It strikes me that these are the types of businesses with hours that will cease by evening, although I don't know. I am just trying to build some protection and accommodation in here tonight rather than having some future meeting faced with complaints. However, we are on the Tentative Map and I think we should go ahead and approve that and then I will offer my motion to reconsider the Use Permit and address the concerns we are talking about.

Chairperson Turley: Please vote on Commissioner Legalos' motion.

AYES: McConnell, Engelman, Salvadori, Legalos, Turley, Peterman, Morris.

NOS: None.

ABSENT: None.

Motion carries.

Commissioner McConnell: I offer the motion to reconsider the Use Permit at this time.

AYES: McConnell, Engelman, Salvadori, Legalos, Turley.

NOS: Peterman, Morris.

ABSENT: None.

Motion carries.

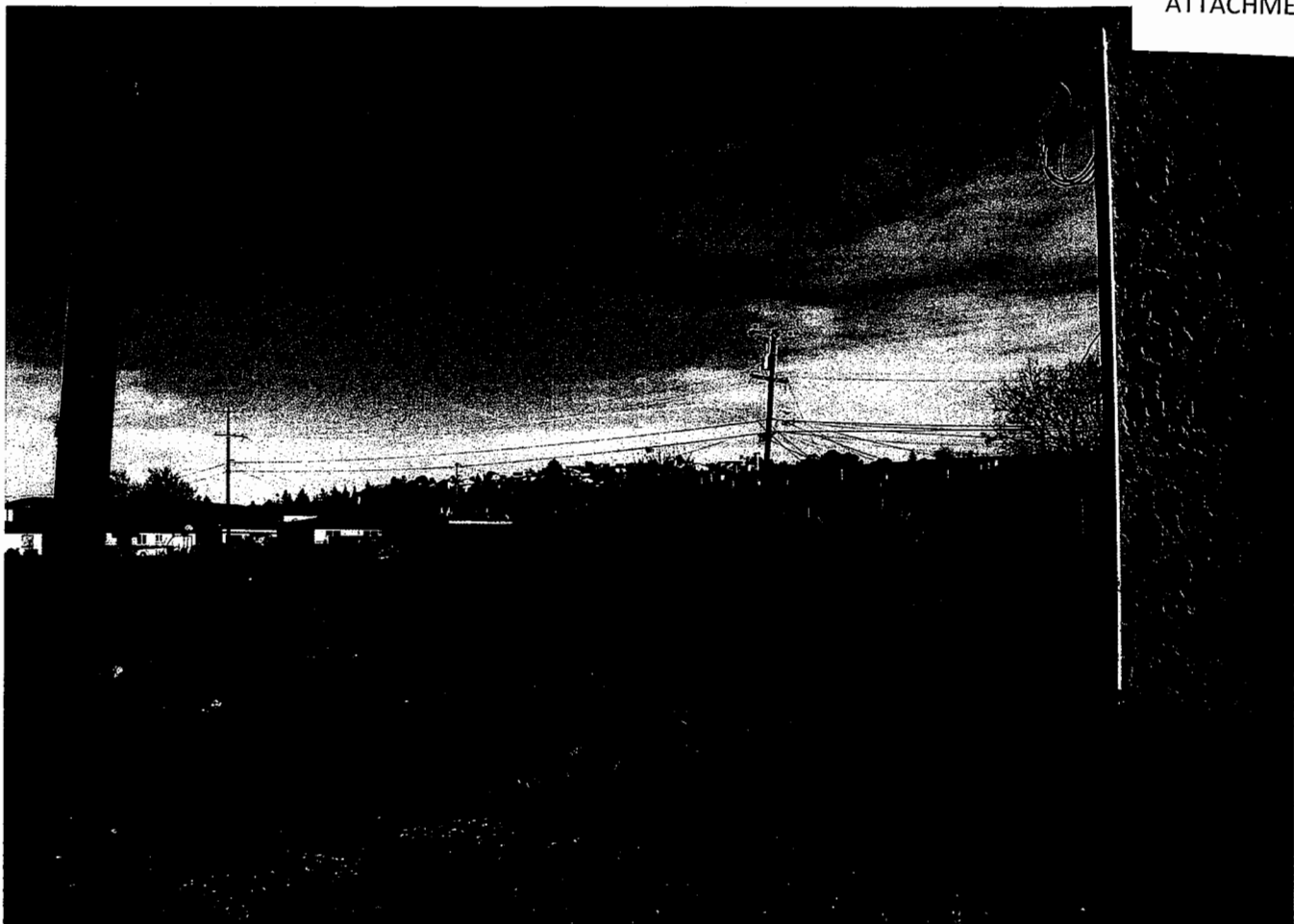
Commissioner McConnell: Now we need to re-offer the Use Permit with any kind of restrictions that we can create to have harmonious living out there, such as hours or sound restrictions or light restrictions. I am thinking we should leave that in the hands of staff, who are better equipped to handle this. With that thought in mind, I would like to re-offer Use Permit 05-0024 with the requirement that staff articulate the requirements to be placed on the applicant to best protect the privacy of the present homeowners and the ones to be built.

AYES: McConnell, Engelman, Salvadori, Legalos, Turley, Morris.

NOS: Peterman.

ABSENT: None.

Motion carries.







Start: 555 Santa Clara St
Vallejo, CA 94590-5922, US

End: Broadway St & Garibaldi Dr
Vallejo, CA 94589, US

Notes:

Only text visible within note field will print.

Directions

Distance

Total Est. Time: 7 minutes **Total Est. Distance: 2.56 miles**



1: Start out going NORTH on SANTA CLARA ST toward CAPITOL ST. 0.1 miles



2: Turn RIGHT onto CAROLINA ST. 0.2 miles



3: Turn LEFT onto SONOMA BLVD / CA-29 N. 1.6 miles



4: Turn RIGHT onto SERENO DR. 0.2 miles

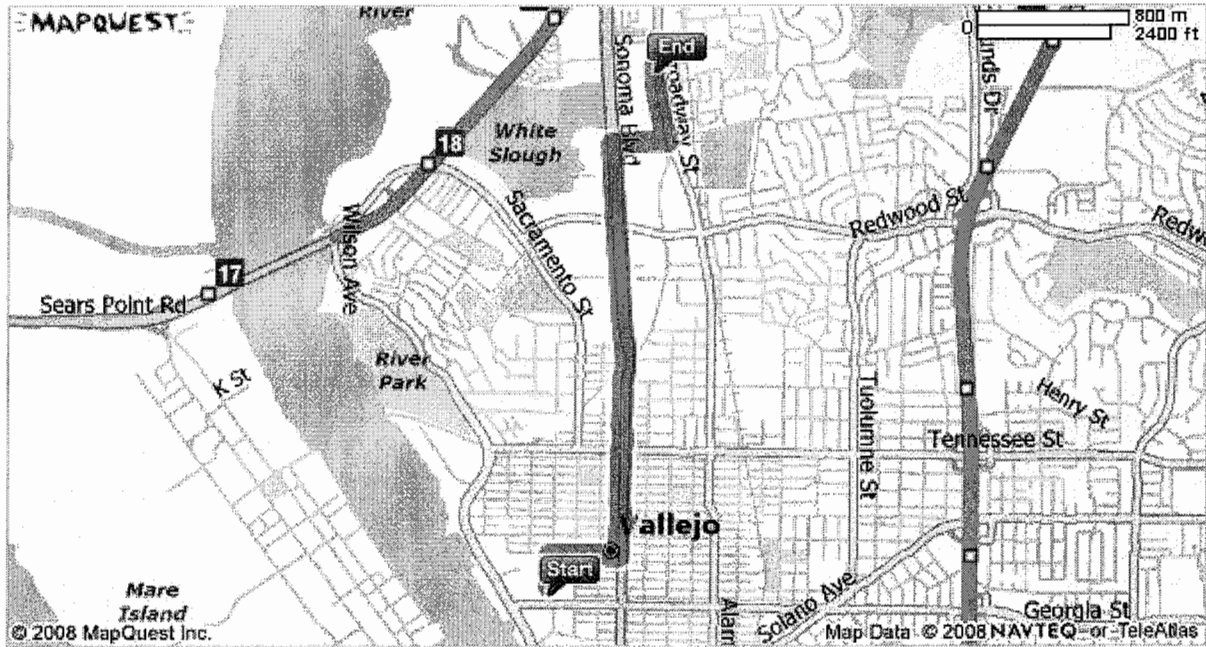


5: Turn LEFT onto BROADWAY ST. 0.3 miles



6: End at **Broadway St & Garibaldi Dr**
Vallejo, CA 94589, US

Total Est. Time: 7 minutes **Total Est. Distance: 2.56 miles**



Start:
555 Santa Clara St
Vallejo, CA 94590-5922, US

End:
Broadway St & Garibaldi Dr
Vallejo, CA 94589, US



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Item K2

**STAFF REPORT – PLANNING
CITY OF VALLEJO
PLANNING COMMISSION**

DATE OF MEETING: March 17, 2008

PREPARED BY: Marcus Adams *MA*

PROJECT NUMBER: UP #08-0001

**PROJECT
DESCRIPTION:**

The conditional use permit application is a request to operate a personal training studio, CrossFit Vallejo within an existing warehouse/office space located in the 7 Flags Business Center at 145 Valle Vista Avenue, Suite D. Proposed hours of operation would be Monday-Friday, 2 p.m. to 7 p.m. and Saturday from 10 a.m. to noon. Maximum class size is expected to be eight clients.

RECOMMENDATION: Approve with Conditions

CEQA: Categorically Exempt (Section 15301) (Class 1)

PROJECT DATA SUMMARY

Name of Applicant: Leila Terrado

Date of Completion: January 30, 2008

General Plan Designation: Employment

Zoning Designation: Intensive Use-Limited (IU-L)

Site/Surrounding Land Use:

**Site: 145 Valle Vista Ave., Suite D
APN 0054-012-670**

North: Office/Warehouse

South: Office/Warehouse

East: Office/Warehouse

West: Car Wash

Lot Area: square feet	48,352
Total Floor Area:	1,200
Landscape Area/Coverage:	Not Applicable
Parking Required/Provided:	To be determined by the Development Services Director/2 spaces provided, 41 total for the business center

BACKGROUND SUMMARY

The Planning Division initially became aware of the training studio proposal when the applicant applied for a business license to operate. The applicant was informed by staff that the training studio use was classified under the category of “Participation Sports and Recreation: Indoor” and would require a conditional use permit, per Section 16.33.040(C)(6) of the Vallejo Municipal Code. The previous use at the site was a wholesale auto dealer.

ANALYSIS

The primary impact staff analyzes when reviewing such uses being proposed for existing buildings is parking: as noted above, the parking requirement for this use is determined by the Development Services Director (or his/her designee) and is made on a case-by-case basis.

The applicant’s lease terms includes two parking spots in front of the roll up door and forty-one spaces which are shared amongst all the tenants. Staff conducted multiple site visits to assess parking conditions for three different time periods: 1) mid afternoon- when the majority of the business center tenants are present, 2) early evening- when the applicant, CrossFit Vallejo, has its largest weekday classes and 3) Saturday morning- when CrossFit Vallejo has its largest class.

Based on the amount of available parking observed during the two weekday site visits, staff believes there is sufficient parking available to prevent CrossFit’s clients (or other Business Center tenants/clients) from parking at the neighboring business (Buttercup Kitchen) parking lot; however, according to Business Center tenants and the applicant, the Business Center parking lot does fill up Saturday mornings causing 7 Flags carwash and Business Center tenants and patrons to park in the Buttercup Kitchen parking lot.

According to the applicant, this problem occurs not because there are not enough parking spaces for the Business Center tenants and customers, but due to the practice of 7 Flags carwash employees and customers using the Business Center parking lot, despite signage discouraging such parking lot use. Staff observed this during a Saturday morning site visit.

To address the over-flow parking problem on Saturday mornings, staff included a condition of approval that the property owner of both the subject parcel and the 7 Flags carwash parcel (i.e. same owner for both parcels) either meet with 7 Flags carwash management and modify/increase signage to distinguish carwash parking from Business Center parking, or provide a copy to the Planning Division of a shared parking agreement with the Buttercup Kitchen property owner.

General Plan Consistency

The proposed use is clearly compatible with the General Plan land use designation of “employment” and would serve as a recreational accessory use for employees of the Center.

ENVIRONMENTAL DETERMINATION

The proposed project is categorically exempt due to the fact that the existing use would involve no expansion or new construction (CEQA Section 15301, Existing Facilities).

CONCLUSION/RECOMMENDATION

Staff has determined that the proposed use is consistent with the City’s General Plan and Municipal Code and all applicable ordinances, standards, guidelines, and policies. Therefore, staff recommends that the Planning Commission approve Conditional Use Permit #UP 08-0001, based on the findings and subject to the attached Conditions of Approval.

FINDINGS

The Planning Commission finds, based on the facts contained in this staff report and incorporated herein by this reference, given the evidence presented at the public hearing, and subject to the conditions attached to this resolution that:

1. The location, size, design and operating characteristics of the proposed conditional use will be compatible with adjacent uses, building or structures, with consideration given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities, to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity and physical character of surrounding streets; and to any other relevant impact of the proposed use.
2. The impacts, as described in subsection 1 above and the location of the proposed conditional uses are consistent with the City’s General Plan.

EXPIRATION

Approval of a use permit shall expire automatically twenty-four months after its approval unless authorized tenant improvements have commenced prior to the expiration date.

APPEAL

The applicant or any party adversely affected by a decision of the Planning Commission may within ten days after the rendition of the decision of the Planning Commission appeal in writing to the City Council by filing a written appeal with the City Clerk and Planning Division. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by the City Clerk or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or city holiday, then the deadline shall be extended until the regular business day.

ATTACHMENTS

1. Resolution
2. Site/floor plan, proposal description
3. Pictures of site
4. Driving Directions
5. Conflict of Interest Map

CITY OF VALLEJO PLANNING COMMISSION

RESOLUTION NO. PC 07-24

**A RESOLUTION OF THE PLANNING COMMISSION
APPROVING A CONDITIONAL USE PERMIT APPLICATION
USE PERMIT #08-0001**

CrossFit Vallejo

The personal training studio use is within the 7 Flags Business Center located at 145 Valle Vista Avenue, Suite D.

APN# 0054-012-670

I. GENERAL FINDINGS

WHEREAS an application was filed by Leila Terrado of CrossFit Vallejo seeking approval for a conditional use permit to legally establish a personal training studio; and

WHEREAS the City of Vallejo Planning Commission conducted a duly noticed public hearing to consider the application for the Conditional Use Permit on March 17, 2008 at which time testimony and evidence, both written and oral, was presented to and considered by the Planning Commission; and

WHEREAS based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

II. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

Section 1. The Planning Commission finds that on the basis of the whole record before it there is no substantial evidence that the project will have a significant effect on the environment per Section 15301, Class 1 Categorical Exemption, "Existing Facilities" of the California Environmental Quality Act.

III. FINDINGS RELEVANT TO USE PERMIT AND FINDINGS FOR PROJECT APPROVAL AND FOR DETERMINATION OF PROJECT CONSISTENCY WITH APPLICABLE GENERAL PLAN

Section 2. The Planning Commission finds that applicant submitted a Major Use Permit application for a personal training studio pursuant to the City of Vallejo Municipal Code Chapters 16.33.040 and 16.82 Conditional Use Permit Procedure.

Section 3. Planning Commission finds, based on the facts contained in the staff report attached herein and incorporated herein by this reference, and given the evidence

presented at the public hearing, and subject to the conditions attached to this resolution that:

1. The location, size, design and operating characteristics of the proposed conditional use will be compatible with adjacent uses, building or structures, with consideration given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities, to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity and physical character of surrounding streets; and to any other relevant impact of the proposed use.
2. The impacts, as described in subsection 1 and the location of the proposed conditional use are consistent with the City's General Plan.

IV. RESOLUTION APPROVING THE CONDITIONAL USE PERMIT APPLICATION FOR A PERSONAL TRAINING STUDIO LOCATED AT 145 VALLE VISTA AVENUE, SUITE D

NOW, THEREFORE, LET IT BE RESOLVED that the Planning Commission hereby APPROVES the Conditional Use Permit application (UP# 08-0001) for a personal training studio, based on the findings contained in the staff report attached hereto and incorporated herein and subject to the Conditions of Approval attached to this resolution.

V. VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Vallejo, State of California, on the 17th day of March, 2008, by the following vote to-wit:

AYES:

NOES:

ABSENT:

CHARLES LEGALOS, CHAIRPERSON
City of Vallejo PLANNING COMMISSION
Attest:

Don Hazen
Planning Commission Secretary

CONDITIONS OF APPROVAL
MAJOR USE PERMIT #08-0001
(APN# 0054-012-670)

CONDITIONS OF APPROVAL:

Planning Division

1. Provide compliance departmental signatures from the Building Division and Fire Prevention **within sixty (60) days** of use permit approval. Failure to provide sign off signatures may result in administrative citations of \$200 or more per citation.
2. The applicant shall submit and have approved a sign permit for existing signage **within 14 days** of use permit approval. Failure to obtain a sign permit within the 14 days may result in administrative citations of \$200 or more per citation.
3. The property owner shall meet with 7 Flags carwash management and modify/increase signage to distinguish carwash parking from Business Center parking or provide a copy to the Planning Division of a shared parking agreement with the Buttercup Kitchen property owner within 30 days of Use Permit approval.
4. Modification to hours of operation, Mon.-Fri. 2 p.m. to 7 p.m. and Sat. 10 a.m. to noon, and maximum class size (8) shall be subject to Planning Division approval.

Building Division

1. Exercise rooms are calculated at 50 square feet per person for occupant load. This use will require separate bathrooms for males and females and shall be ADA compliant.
2. Provide the occupancy of each adjacent tenant in order to determine if firewall separation is required.

Vallejo Sanitation and Flood Control District

1. Prior to building permit issuance, a **VSFCD** Connection Permit is required. Pay all applicable review and connection fees.
2. The project, as submitted, was incomplete. The following information that is needed is in bold lettering:

All proposed and existing District facilities to serve the project. Provide site utility plan showing existing and proposed sanitary sewer and storm drain facilities, mains, laterals, connections, etc.

Please show location of sanitary sewer and cleanout on site utility plan.

3. Prior to occupancy/final building inspection, provide a standard VSFCD cleanout at the right-of-way/easement line per District standards and a two-way cleanout at the building per the U.P.C.

STANDARD CONDITIONS

Planning Division

1. The conditions herein contained shall run with the property and shall be binding on the applicant and all heirs, executors, administrators, and successors in interest to the real property that is the subject of this approval.
2. The premises shall be subject to a fire inspection and the use permitted thereon shall be contingent upon compliance with fire regulations and requirements (VMC 16.58.040[D][5])
3. Such use shall not adversely affect the neighborhood in which it is located. For the purposes of this subsection, "adversely affect" shall mean to impact in a substantial, negative manner the economic value, habitability, or enjoyability of properties in the immediate area (VMC 16.58.040[D][6]).
4. If the Planning Division, either independently or as a result of complaints from the public, becomes aware that the use is being conducted in a manner which violates the conditions of this use permit or other applicable City regulations, and Planning staff is unable to obtain compliance or abatement, staff will refer the use permit to the Planning Commission for possible suspension or revocation per Section 16.82.110, Vallejo Municipal Code.

GENERAL CONDITIONS

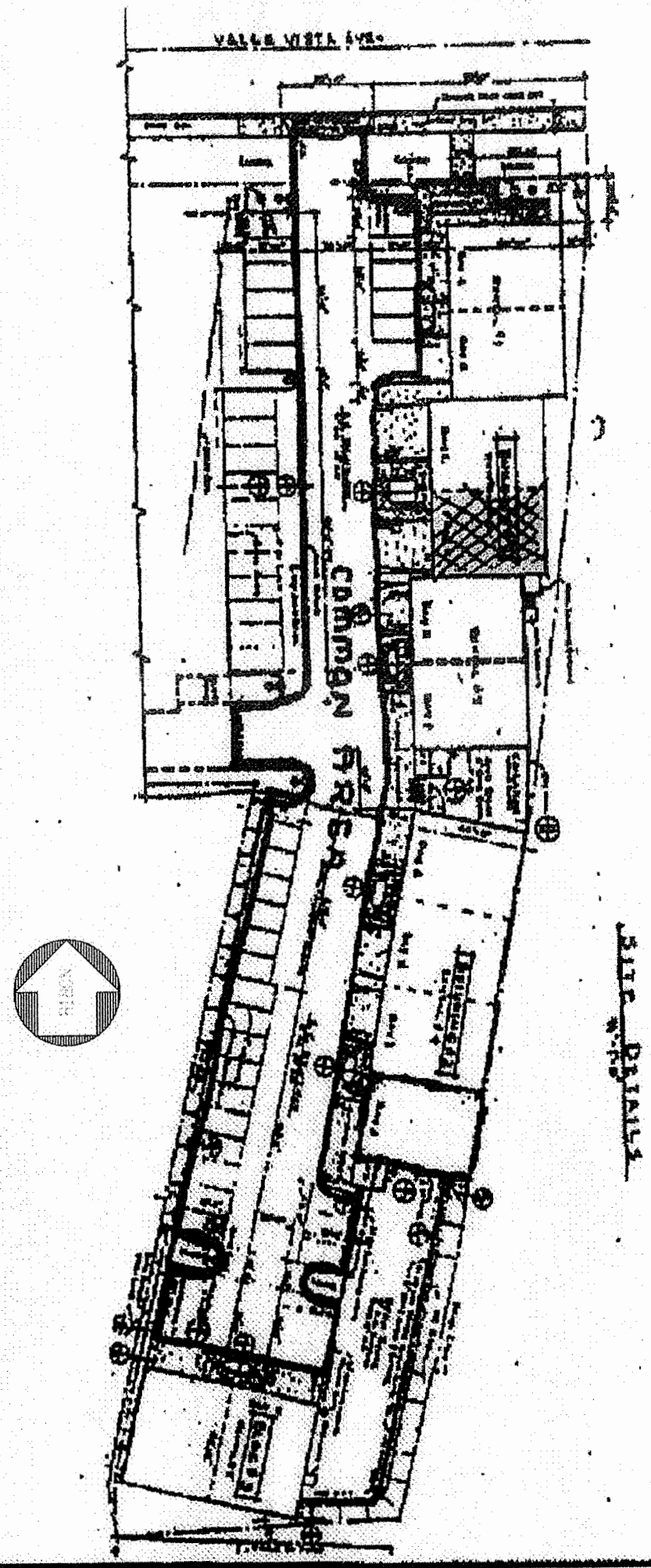
1. The applicant shall defend, indemnify, and hold harmless the City of Vallejo and its agents, officers, and employees from any claim, action, or proceeding against the City and its agents, officers, and employees to attack, set aside, void, or annul this approval by the City. The City may elect, at its discretion, to participate in the defense of any action.

Detailed Description of Proposal

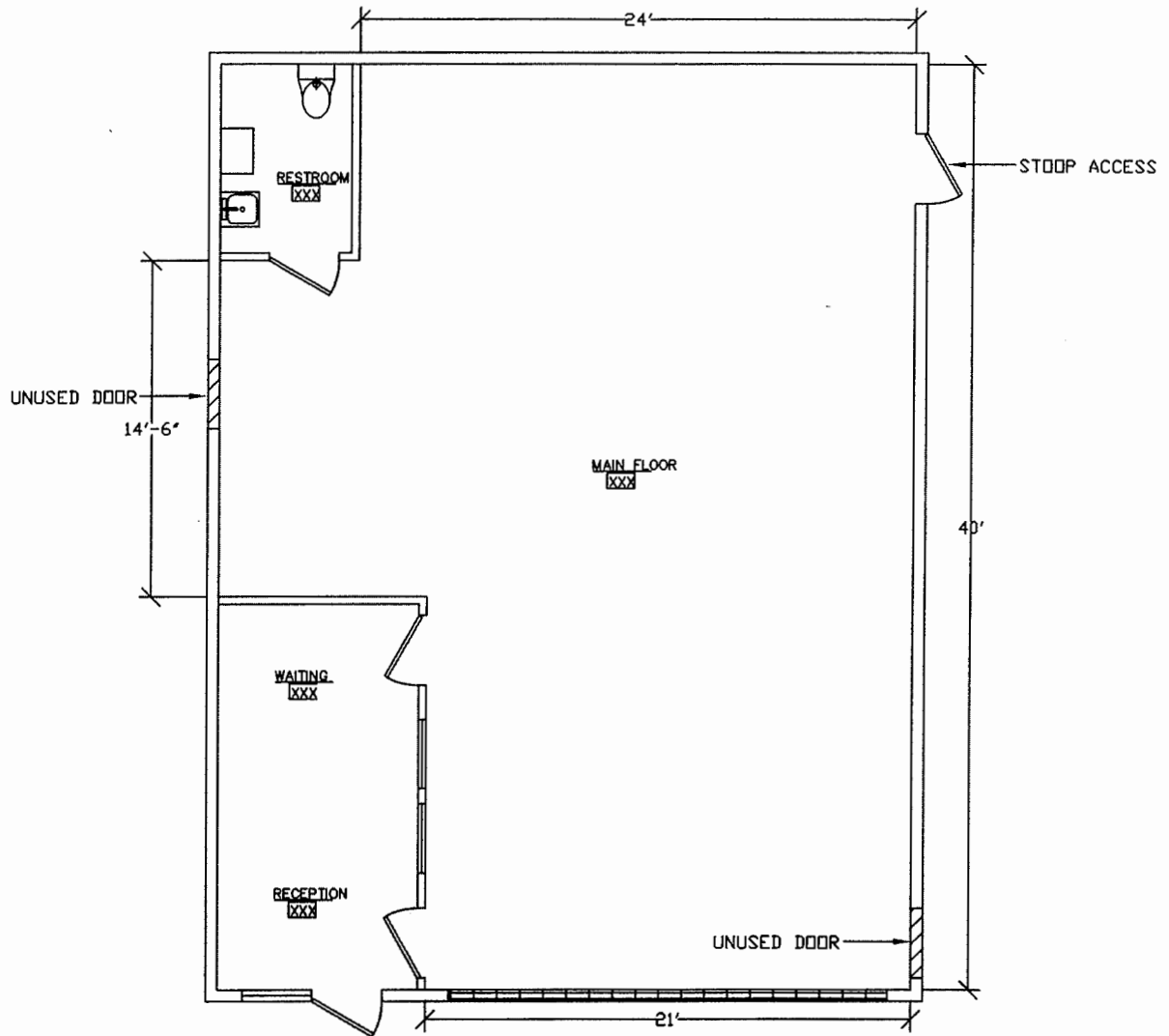
CrossFit Vallejo is a Personal Training Studio that revolves around human movement and performance not vanity. We use functional movements like the squat, push-up, pull-up, running, rowing and more to prepare our clients for sport and life. Our classes are small by design (no more than 8 clients/class) to ensure that each of our clients receives proper instruction and attention.


CrossFit Vallejo is an affiliate of CrossFit a maverick gym started in Santa Cruz by coach Gregg Glassman. In the few years that CrossFit has been around it has become the principal strength and conditioning program for police, fire, military, champion martial artists, elite athletes, grandparents, housewives, children and basically everyone looking for true functional fitness.

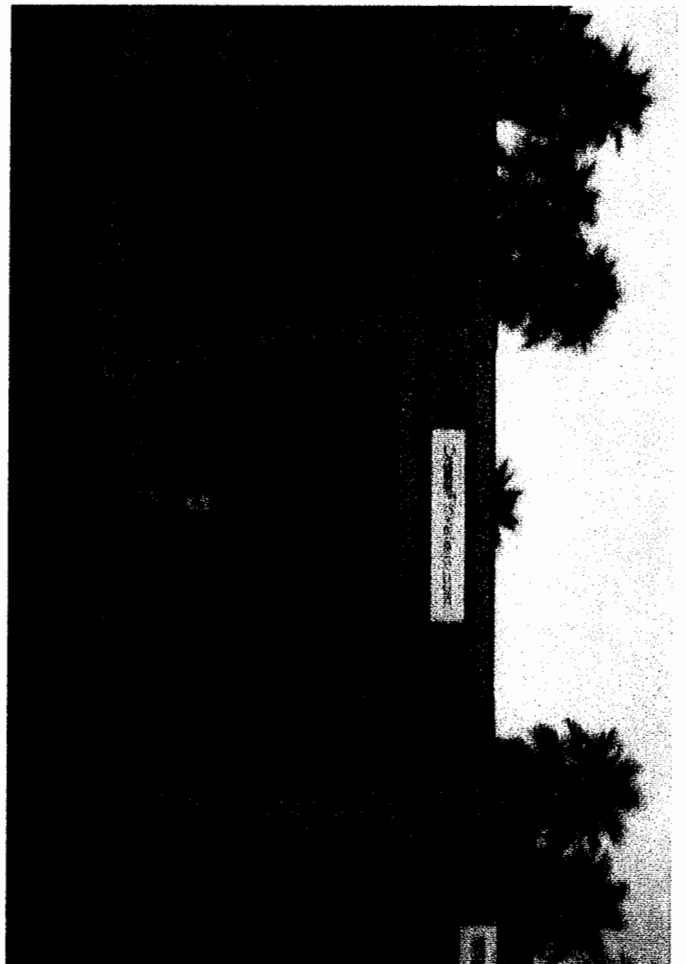
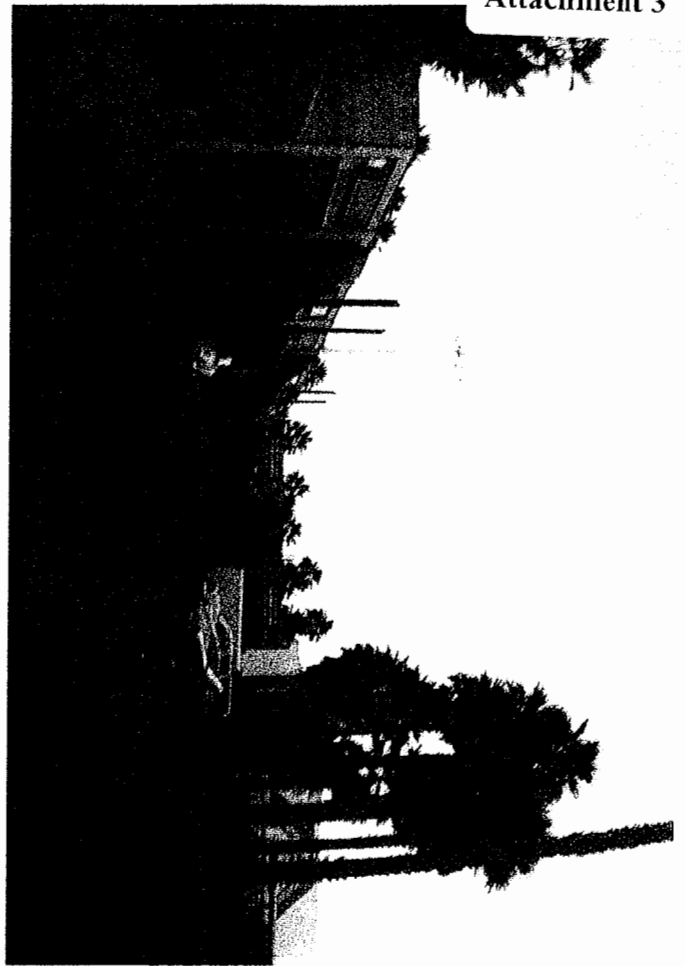
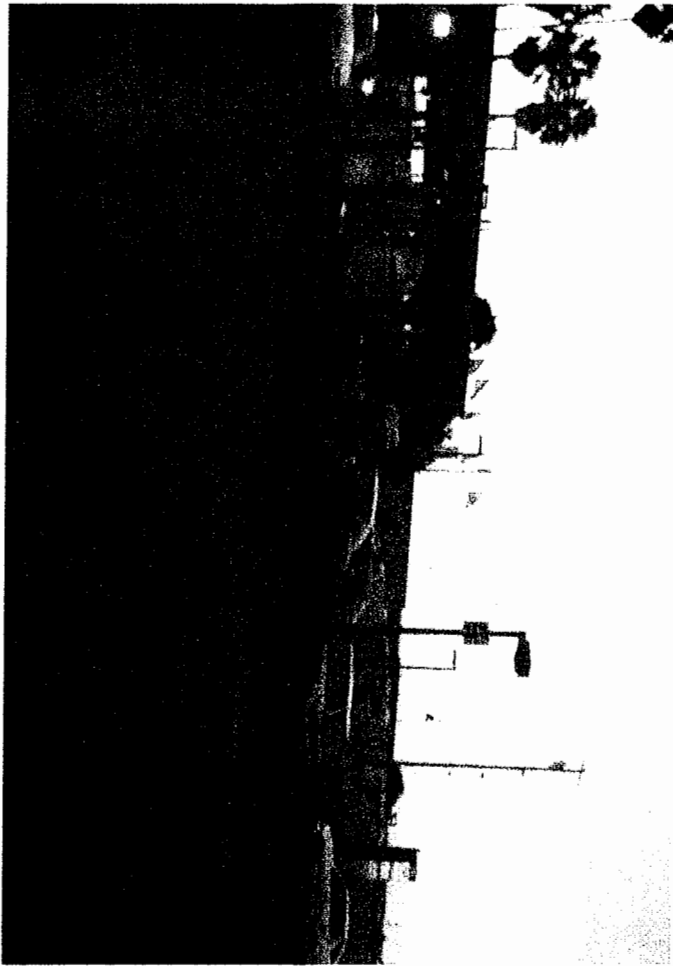
SITE MAP - 145 VALLE VISTA AVE. VALLEJO, CA 94589



FLOOR PLAN – 145 VALLE VISTA SUITE D



① CROSSFIT VALLEJO – 145 VALLE VISTA SUITE D
1/4" = 1'-0" 





Start address: 555 Santa Clara St, Vallejo, CA 94590

End address: 145 Valle Vista Ave, Vallejo, CA 94590

Distance: 1.6 mi (about 5 mins)

Map data ©2008 Tele Atlas



Head north on Santa Clara St toward Capitol St - go 325 ft



Turn right at Capitol St - go 0.3 mi

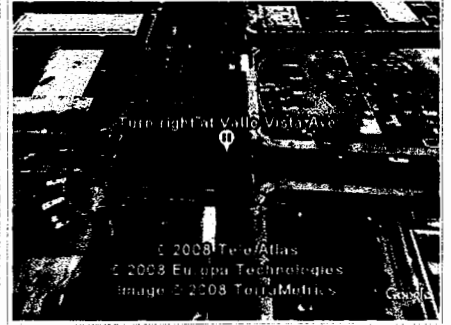




Turn left at CA-29/Sonoma Blvd - go 1.2 mi



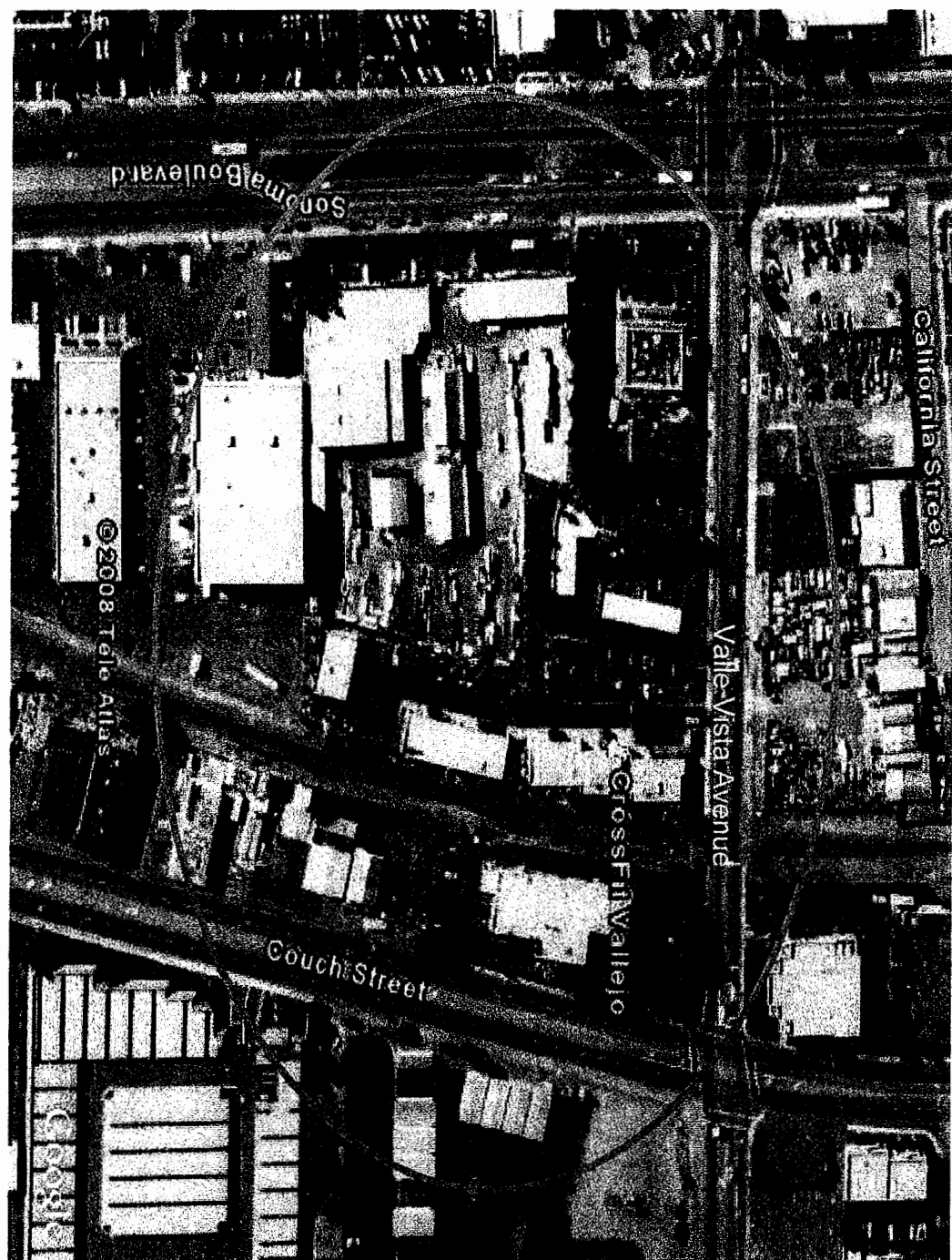
Turn right at Valle Vista Ave - go 390 ft



Arrive at: 145 Valle Vista Ave, Vallejo, CA 94590 -



CrossFit Vallejo: Personal Training Studio



500' conflict of interest/vicinity map